

FEDERAL BUREAU OF INVESTIGATION  
FREEDOM OF INFORMATION/PRIVACY ACTS SECTION  
COVER SHEET

SUBJECT: LEWIS F. POWELL, JR.  
FILE # 77-HQ-121928

10/28/71

LEWIS FRANKLIN POWELL, JR.  
DEPARTMENTAL APPLICANT  
JUSTICE  
SUPREME COURT OF THE UNITED STATES

Enclosed herewith are four items which deal with Mr. Powell's philosophy concerning communist tactics, strategy, and objectives. The articles are as follows:

1. A supplemental resolution submitted by the applicant to the House of Delegates, American Bar Association, (ABA).
2. An ABA report dated July 1, 1960, concerning communist tactics, strategy, and objectives.
3. A xeroxed copy of a newspaper article captioned "Understanding Of Red Aims Urged."
4. A xeroxed copy of an article from the January 3, 1961, issue of the Richmond "Times Dispatch" captioned "The Grim Facts As To Communism."

Enc.

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

OFL:tlc TAC  
(4)

Return to Mr. [REDACTED] Room 1252.

hand delivered  
RL  
10/28/71

b6/b7C

77 10/1971 50

NO. 1252

DEC 8 1971

60 DEC 10 1971

MAIL ROOM  TELETYPE UNIT

Proposed Resolutions to be  
Submitted to House of Delegates  
by Lewis F. Powell, Jr.  
Richmond, Virginia  
August 29, 1960

Supplemental Resolutions

to those proposed by

Committee on Communist Tactics, Strategy & Objectives

WHEREAS, the determination of International Communism to destroy western civilization -- by infiltration and subversion if possible, but by force if necessary -- is the overriding problem of this age, transcending in importance all other problems; and

WHEREAS, it is essential that the youth of America understand this problem and the fateful consequences which would engulf the world if the conspiracy of International Communism is successful; and

WHEREAS, although much is being done in the public and private secondary schools of our country to educate our young people in this respect, this is usually undertaken in conventional courses in social studies or in survey courses in history and government where there is often a lack of depth, emphasis and concentration on International Communism; and

WHEREAS, it is believed that the national interest requires a fresh and more intensified effort to educate more thoroughly in this area, and that one useful step would be the

77-121927-50

1. NOW THEREFORE BE IT RESOLVED that the American Bar Association recommends:

- (a) That there be added to the curriculum of every secondary school, public and private, a required course devoted specifically to the study of Communism;
- (b) That such a course should meet the highest academic standards of accuracy, thoroughness and scholarship;
- (c) That the content of such course should include, among other things, (i) the history of International Communism and especially its imperialistic expansion since World War II, (ii) the major characteristics of Communist doctrine, including the concept of the inevitability of war with capitalistic nations, and (iii) the techniques of propaganda, falsehood, intimidation and subversion in all areas of human activity which are practiced relentlessly and relied upon to expand and consolidate Communist influence and domination throughout the world;
- (d) That such a course should afford an effective means of contrasting the merits and freedoms of western democracy and Twentieth Century capitalism with the brutal and repressive characteristics of "dictatorship of the proletariat"; and
- (e) Perhaps above all, that such a course should help prepare our youth to be informed and dedicated American citizens.

capable of understanding the issues which challenge freedom and of acting effectively to meet such issues.

2. FURTHER RESOLVED, that as a means of implementing the foregoing resolution, the American Bar Association should:

(a) Request the cooperation of state and local school boards and boards of education throughout the country, and urge such boards to initiate courses in International Communism and provide appropriate in-service training to assure that qualified teachers are available to conduct such courses;

(b) Enlist the cooperation of the appropriate educational authorities to assure that in the training and certification of new teachers due recognition is accorded the need for teachers highly qualified in this respect;

(c) Enlist the cooperation of the publishers of text books and materials for our secondary schools, with the view to having prepared expeditiously the requisite text books and materials; and

(d) Recommend to state and local bar associations that they establish committees to cooperate with state and local boards of education in such ways as may be mutually agreeable in the furtherance of this program, including the providing

of competent speakers to address school assemblies, to participate in teacher seminars and forums, and to work with civic organizations in promoting a public understanding and acceptance of the need for specific and more intensive education in this area.

3. FURTHER RESOLVED, that it is the purpose of these resolutions to supplement the resolutions recommended by the Special Committee on Communist Tactics, Strategy and Objectives as proposed in its report of July 1, 1960.

#55

AMERICAN BAR ASSOCIATION

*Recommendations and Report, July 1, 1960*

Communist Tactics, Strategy and Objectives

NOTE: Reports of Sections or Committees of the American Bar Association, prepared for submission to the House of Delegates are NOT to be construed to represent the official policy of the Association. Reports containing policy recommendations reflect Association policy ONLY as and when these recommendations are acted upon by the House of Delegates.

77-1-369-1438-2nd

ENCLOSURE

77-121928-50

## *Contents*

### **Foreword**

### **Recommendations**

#### **The Fundamentals of Communism**

##### **Fundamental Communist Principles**

- The Twilight of World Capitalism*
- Communist Internationalism*
- Communist Principle of Class Struggle*
- Communism: Principle of Deceit*
- Communist Use of Aesopian Language or Double Talk*
- Communist Theory of Revolution*
- Communist Meaning of World Peace*
- Communist Concepts of Imperialism and Colonialism*
- Communist Concepts of Democracy and Freedom*
- Communism. Talk Peace but Defend War*

##### **Communist Tactics and Strategy**

- Communist Meaning of Tactics and Strategy*
- Exploitation of Underground Apparatus*
- Aggression as Means to End*
- Propaganda as Weapon*
- Exploitation of Cultural Exchanges*
- Weapon of World Trade*
- Building Communism with Noncommunist Hands*
- Tactic of Infiltration*
- Fronts as Screen*
- Espionage Activities*
- Sabotage Potential*

##### **Communist Objectives**

- World Conquest*
- Cripple National Defense*
- Weaken Internal Security*
- Undermine National Economy*
- Exploit Racial Strife*
- Create Domestic Disunity*
- Discredit United States*
- Foreign Activities*
- Neutralize World Organizations*
- Destroy Unity of Free World*

## **Law as a Communist Weapon**

*Law as an Instrument of Peace  
Role of Soviet Courts  
Role of Soviet Public Prosecutor  
Role of Soviet Judges  
Soviet Judicial System  
Toward a Soviet America  
Use of Courts for Propaganda Purposes  
Communist Defense Tactics  
Role of Communist Lawyer  
Communist Attacks on Constituted Authority  
Beachhead of Subversion*

## **Meeting the Communist Menace**

*Fountainhead of Freedom  
Protect Constitutional System  
Correct Deficiencies in the Law  
Smith Act of 1940  
Security of Government Employees  
Aliens  
Espionage  
Foreign Agents Registration Act of 1948  
Communist Lawyers  
Congressional Committees  
Need for Education and Leadership*

## **Documentation**

### *Recommendations*

The Committee recommends the adoption of the following three resolutions.

WHEREAS, the need for understanding the true meaning of Communism and its methods, as contrasted by liberty under law as provided by the Constitution of the United States, has never been more real and urgent than now; and WHEREAS, it is of particularly vital importance that our youth should have an objective explanation of the true nature, sinister meaning, and ulterior purpose of Communism in contrast with our system of constitutional government, so that they may be alerted and be better able to deal with the world wide totalitarian system of Communism and thus preserve the freedoms of our American heritage.

NOV, THEREFORE, BE IT RESOLVED: That the American Bar Association recommend to State and local bar associations that they establish committees to conduct a program to provide addresses and literature to school assemblies and civic organizations to explain the nature, objectives and tactics of Communism, and its dangers to our rights and freedoms, and to contrast affirmatively the basic fundamentals of Communism with the liberties under the Constitution of the United States.

AND BE IT FURTHER RESOLVED: That the President of the American Bar Association shall appoint a Special Committee consisting of eminently qualified members of this Association, whose objective shall be to implement this resolution, which Special Committee shall report to the House of Delegates at the next succeeding Midyear and at each succeeding Annual Meeting concerning its progress in this educational program.

RESOLVED:-That printed copies of this report of the Special Committee on Communist Tactics, Strategy and Objectives submitted to the House of Delegates be distributed to the members of the American Bar Association, to state and local bar associations, libraries and civic organizations. The extent of the distribution and the cost thereof to be subject to the approval of the Board of Governors.

RESOLVED: That the Special Committee on Communist Tactics, Strategy and Objectives be continued.

### *Report*

#### *Foreword—The Peril We Face*

The heightened world tensions under which we live today are attributed directly to the impact of aggressive international Communism. Forces of evil are at work to destroy our basic freedoms which alone make the American heritage a meaningful reality. We have accepted those freedoms as part of our democratic life with much the same complacency as we breathe the air around us. Too often we think of democracy as something automatic: a blessing which

is ours by right of inheritance—once fought for and cherished—but for which we, in our day no longer need be called upon to sacrifice “our lives, our fortunes, and our sacred honor.”

What has happened on the world stage since the last meeting of this Association compels recognition, particularly by lawyers of the urgent necessity for a comprehensive objective analysis of the meaning of Communism, its threats to constitutional liberties, its tactics, strategy and objectives, to the end that we may protect ourselves and our institutions against an enemy whose declared intention is to destroy the freedoms hard won at Valley Forge.

Today, as never before, it is the obligation of the American Bar to protect our freedoms and make liberty under law a rewarding reality. This can be achieved only by blocking the advance of the communist program which seeks to weaken the fibre of American life.

America is threatened today as never before. The military might of the Fatherland of world communism, Red China and Red satellites now controls over one-third of the earth's surface and one-fifth of the world's inhabitants. Likewise, our Nation is threatened from within by the American Communist Party, and its followers. They already have established beachheads of subversion around the world and in organization after organization here and abroad. Within ninety miles of our mainland another is being built by the communists in the once peasant island of Cuba which this Nation liberated from tyranny at the turn of the century. The Red beachhead in Cuba is being developed as a base from which military as well as propaganda attacks can be mounted against the United States and Latin America.

Following the proposed Khrushchev visit to Cuba, it can be reasonably anticipated that efforts will be made to install bases for missiles and a submarine base. Soviet and Red Chinese technicians are already on the scene and others are coming in increasing numbers. Red radar tracking will be an important arm of Soviet intelligence in keeping our missile base at Cape Canaveral under surveillance. Red provocateurs will increasingly encourage Panamanians to seize the Panama Canal in the pattern of Nasser's seizure of the Suez Canal. The danger in this situation was highlighted by the testimony of George V. Allen, Director of the U.S. Information Agency before the House Foreign Relations Committee, that communists are spending \$100,000,000 in a “hate America” campaign spearheaded in Cuba where the Reds seek to establish bases close to the United States.

Senator Kenneth B. Keating said the Senate Internal Security Subcommittee has evidence that 1,000 Chinese communists have entered Cuba to enlist the support of their 30,000 countrymen there, and that there has been a steady movement of Soviet engineers and technicians through East Berlin to the Caribbean. (1)

Gus Hall, General Secretary of CPUSA in the January 1960 issue of *Political*

Affairs has this to say about Cuba:

"The revolutionary development in Cuba . . . is an inspiration to the peoples' forces throughout this hemisphere."

When called before the Senate Internal Security Subcommittee on February 2 and 3, 1960, Hall showed his contempt for constituted authority by taking refuge behind the Fifth Amendment even in those matters he had proclaimed to the world through the communist press.

The vast expanse of the Atlantic and Pacific Oceans no longer gives us the necessary protection. Already our armed forces have dispatched missiles with surprising accuracy more than 9,000 miles in less than an hour. We must assume the Soviets have similar missiles.

Advances of Soviet science make possible instantaneous assaults which could be devastating beyond description. Fifth column already organized to rise up as instantaneous armies of occupation make it necessary to insure that our security agencies are equipped to meet them with legal authority. Time is running out if we are to protect ourselves from within. There needs to be a more realistic appraisal of the menace which confronts our way of life and prompt and decisive action on the part of all Americans and particularly our law makers and courts to find a way to ". . . provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity."

The recommendations for legislation, which were overwhelmingly adopted by the House of Delegates of the American Bar Association upon the recommendations of this Committee in February 1959, have not been acted upon by the Congress. Legislation is urgently needed to protect the national security in areas in which government agencies are now handicapped, either under existing law, or lack of law. The Congress and the Executive Departments of our government should give more serious consideration to the studies and recommendations of the Commission on Government Security headed by former President Loyd Wright of this association. In the meantime, absent of such curative legislation, Soviet agents may on their treacherous acts under the protective shield of our Bill of Rights.

The Supreme Court has stated in *Barenblatt v. United States* that to suggest that the Communist Party

". . . were just an ordinary political party from the standpoint of National Security, is asking this Court to blind itself to world affairs which have determined the whole course of our national policy since the close of World War II — and to the vast burdens which these conditions have entailed for the entire Nation." (2)

It is heartening to note the Court's conclusion (in *Barenblatt*):

"We conclude that the balance between the individual and the governmental interests here at stake must be struck in favor of the latter . . ." (3)

As a result of its past and continued study of communist tactics, strategy and objectives your Committee looks to the future with unfeigned fear—for, as the apathy toward the communist peril continues, the danger increases in direct proportion.

One peril has been conspicuous by its absence in the news of the day. Nikita Khrushchev, who has finally emerged as the unquestioned dictator of the Soviet Union and the acknowledged spokesman for World Communism, in addressing the Supreme Soviet on January 14, 1960, blueprinted the Soviet view of modern war with these words:

"in the old days battles started along frontiers. Now war will begin in the rear of countries. All industrial and strategic centers will be attacked within the first hour. The war will start differently and develop differently." (4)

In the report to the Supreme Soviet, Khrushchev intimated that Soviet science had new achievements and referred to an "... even more formidable and perfect ... a fantastic weapon." No doubt this statement was made for propaganda purposes; but it is entirely possible that when the head of the Soviet Union thus spoke of new weapons, he had some basis for such statements.

Is it possible that the Soviets now have the neutron bomb?

The neutron bomb is beyond the stage of scientific theory; it is just a question as to when it will become a reality and who gets it first. No major power has officially admitted that it is working on the neutron bomb, but it must be presumed that all major powers have placed it high on their priority of crash programs. The neutron bomb will destroy life but not property and, therefore, will be far more practical than the atom or hydrogen bombs. Its devastating power stems from its lethal dosages of radiation of sufficient strength to penetrate buildings and bomb shelters. From scientific data, it appears that the neutron bomb would be a lightweight weapon which could be delivered in quantity from submarines or smuggled in by saboteurs who could use delayed detonating devices.

The explosion of a neutron bomb would develop very little fallout, and areas would not long remain contaminated. A Fifth Column could take over promptly after saboteurs performed their treacherous deeds. It would be too late for the security agencies, the armed forces, the Congress or the courts to take corrective action. Responsibility, however, always finds a final resting place.

The propaganda of communism must be met with truth, and the lies of communism must be exposed.

To illustrate, the United Press International, on June 13, 1960, carried two conflicting dispatches. A dispatch from Moscow reported a *Pravda* story on June 13 that Khrushchev had recaptured the Kremlin majority who supported his policy—"... that the world should disarm and that countries with opposing political systems can live together peacefully." The other dispatch came from Tokyo and quoted an editorial from the Official communist press, the *Peking*

*People's Daily*, as follows:

"... the primary task of Eisenhower's tour is to interfere in the internal affairs . . . hold down the just patriotic struggle of the people of these countries shield the jackals of the United States . . ."

The UPI dispatch further reported that—

"Communist China's propaganda outlets . . . called upon Asian people to teach him (the President) a 'good lesson'."

Out of one side of the mouth Soviet communists continue their false propaganda of peace, while out of the other side of the mouth, the Chinese communists continue their campaign of vilification. Thus it is apparent that a fundamental ideological but not political quarrel is taking place throughout the communist world over orthodox Leninism. On one side is Khrushchev who takes the position that communism can be achieved universally by peaceful means because it is the "scientific" inevitable next step in civilization; on the other is Mao Tze-Tung who insists that the war against "imperialism" is essential to the success of communism. Mao does not believe in a cold war but wants an immediate atomic war. This quarrel is having far-reaching effects throughout the world now.

Under these grave circumstances, as individuals devoted to the preservation of free and democratic government under law, lawyers must alert the American people to the nature of the communist menace and what can be done to meet it. Beyond that every American needs to know how he can aid our security agencies, such as the Federal Bureau of Investigation, in discharging its duty of protecting our internal security.

The purpose of this report, therefore, is to put into the hands of American lawyers a brief resume of the fundamentals of communism, its current tactics, strategy and objectives with suggestions for meeting this menace, of gravest import to America, and to the dwindling part of the world as yet free or "uncommitted."

#### The Fundamentals of Communism

To understand communism, it is necessary to start with the basic premise that Communism is *A WAY OF LIFE*. Just as the world's great religions—Judaism, Christianity, Mohammedanism, Buddhism and others—are a way of life—so also is Communism. Beyond that it is a world wide conspiracy to which its adherents bring the discipline of soldiers and an unwavering fanatic dedication.

Communism started over 100 years ago with the *Communist Manifesto* written by Karl Marx and Friedrich Engels. Its menace to the free world began with the Bolshevik Revolution in 1917. Since then its great actionists, Lenin, Stalin and now Khrushchev, have never deviated from certain basic principles. Although, Khruschev denounced Stalinism as the Cult of the Personality in 1956, at the Twentieth Congress of the Communist Party in the Soviet Union in 1957, he said:

"But we do no criticize Stalin as a bad communist as far as the interests of the working classes are concerned. . . . God grant that every communist should fight for the interest of the working classes as Stalin did." (5)

After Khrushchev succeeded in destroying the "Saviour Complex," built up around Stalin, a re-occurrence of the Cult of the Personality is now being built up around Khrushchev.

A favorite communist tactic is to ask the question "What is wrong with communism?" Intelligent and well informed people may not have a ready answer, although they may condemn Communism for its aggression, tyranny and state ownership.

What, then, do communists believe, and why is the communist way of life so diametrically opposed to western civilization?

There are four basic concepts which are the corner stones of Communism and upon which the Marxist-Leninist way of life rests. The following fundamental concepts give the communist the reason and excuse for his revolutionary violence and amoral conduct:

All that exists is the result of the interaction of material things struggling against each other and adapting their forms to the nature of the struggle. Thus the creation and everything in existence came about as the result of the forces of nature; hence there is no design in the universe.

Man is a product of his environment and has developed through natural selection to his present form. He has cultivated certain muscles, as, for instance, the brain which thus makes him intellectually but not physically superior to other animals.

The moral code of any era is determined by the necessities of the time and place. Lenin said: "We do not believe in eternal morality, and we expose all fables about morality. . . ." (6) Lenin further stated: "Morality is that which serves to destroy the old exploiting society . . . Communist morality is the morality which serves this struggle." (7) Thus it is not wrong to kill, lie, cheat nor steal if done for the cause. In other words, to the communist, the end justifies the means.

The supernatural is a device invented by the ruling class to control other classes. It is impossible to believe in a God and in dialectical materialism at the same time. Atheism is a requirement for membership in the Communist Party.

Hence, Marx stated "Religion is the opium of the people." Lenin said:

"Religion is a kind of spiritual gin (Vodka) in which the slaves of capital drown their human shape and their claims to any decent life." (8)

As a substitute for religion communists developed a militant crusade for atheism since,

"Atheism is a natural and inseparable part of Marxism. . . . Consequently, a class conscious Marxist party must carry on propaganda in favor of athe-

ism." (9)

Although frequently invoking the name of the Deity, Khrushchev said:

"I think there is no God. I freed myself long ago from such a concept. I am a partisan of a scientific point of view, and science and faith in supernatural forces are irreconcilable opinions." (10)

Earlier Khrushchev said:

"We communists, the Soviet politicians, are atheists." (11)

#### Fundamental Communist Principles

The phenomenal growth of the communist conspiracy gives confidence to communists for the future. In June, 1957, Soviet Premier Nikita S. Khrushchev, during the course of an interview before a nationwide American television audience, proclaimed:

"... I can prophesy that your grandchildren in America will live under socialism..." (12)

In a similar vein, William Z. Foster, Chairman Emeritus of the Communist Party USA (CPUSA), dedicated his book, *The Twilight of World Capitalism: To My Great-Grandson Joseph Manley Kolko Who Will Live in a Communist United States.*" (13)

Implicit in all communist propaganda is the premise that communism is invincible and that its triumph is inevitable. Communism is portrayed as the irresistible "wave of the future," against which all opposition is futile. This theme was spelled out in detail recently by the authoritative Soviet theoretical publication, *Kommunist*, in an article stating that "Communism is the highest stage of social progress. All the peoples of the globe are moving toward it inexorably and will inevitably come to it." (14)

#### Communist Internationalism

To assert its leadership of the World Communist Movement after the successful Bolshevik Revolution of 1917, the Soviet Union created an international organization called The Communist International, commonly known as The Comintern. In 1920, the Comintern adopted 21 conditions for membership, a veritable constitution for international communism. Several of the conditions demanded blind subservience, unquestioned loyalty and duty to defend the USSR against all its enemies. (15)

In 1921, the Communist Party (CP) in the United States submitted to the 21 conditions of membership and became a section of the Comintern. The CPUSA retained its Comintern membership until November, 1940, when it withdrew as a tactical maneuver to evade the provisions of the Voorhis Act. This Act required registration with the Attorney General by any organization subject to foreign control which engaged in political activity. Although the Comintern itself was dissolved in 1943 in a tactical move to express "friendship" between the USSR and its allies, the CPUSA's allegiance to the Soviet Union has neither

ceased nor decreased. (16)

The 12-Party Declaration issued by communist bloc nations in November, 1957, reiterated the obligation of the international communist movement to defend the Soviet Union at all costs. (17) Under the international discipline of the communist movement, communist parties throughout the world carry out Moscow's orders without question. All communist parties are united by the common ideology of Marxism-Leninism, and maintain close "fraternal" relations with each other.

Relations are sustained in various ways. Important meetings—congresses and conventions, for example—provide opportunities for visits by Party leaders to other nations. Thus, two representatives of the CPUSA, along with representatives from practically all other communist parties, attended the 21st Congress of the CP of the Soviet Union in Moscow in 1959. The two American Communists naturally traveled under the safety of passports issued by the U. S. Government. The international cohesion of the Communist movement is aided by communist publications applying the principles of Marxism-Leninism. These publications provide a clearing house for policy guidance on theoretical and practical questions, and lay down the Party line. Thus when the Soviet communists decided on the program of the Cold War, Duclos, the French communist leader, spoke to American communists through the pages of the French party magazine. Duclos said Browder should be denounced—he was. The Parties' major theoretical publication in the United States is called "Political Affairs," and lays down the Party line.

The USSR exercises complete control over this international conspiracy. It commands the support of communist parties in the free world to the extent of engaging in activities which are essentially traitorous.

In a similar manner communist parties in other countries have the support of the party in the Soviet Union and in other lands. At the 17th National Convention of the CPUSA held in New York City on December 10, 1959, American communists received greetings from 50 communist parties in foreign countries including the Soviet Union and Red China. (18)

#### *Communist Principle of Class Struggle*

A key principle in the communist movement is the communist concept of the class struggle. This concept pervades all communist theory and practice. According to Marx, history has been a series of class struggles which will end in a new period or stage of society. The current class struggle, communists hold, is being waged between the bourgeoisie and the proletariat, the capitalists and the workers, the exploiters and the exploited, the rulers and the ruled.

To communists, the class war has never deviated down through the years though it has assumed various forms in different eras. In early times, the class struggle was between the slave owners and the slaves. In a later age, it was between the feudal lords and the serfs. Finally, the present day class struggle is

centered between the Free World and the Soviet World. Strangely, this does not exist between the peasants in the Soviet Union and their well fed masters and the luxury living rulers of the CPSU. The result of this struggle, communists believe, will be the collapse of capitalism and the emergence of the Reign of Communism.

Communists' preoccupation with the class struggle arises from their dedication to the "class war," whether it be a small local dispute or a huge clash between the Soviet Union and the capitalist nation. For communists, every day is an engagement in the never-ending class war.

According to communists, the class struggle does not exist solely in the field of practical action. It exists also in the arena of ideas, in the realm of the mind. Hence, in the communist view, there is continual clash of ideas, of theories, and of ideologies.

Many well informed people have been led by communist propaganda to believe that the Soviets in fact recognize Western civilization and the necessity of changing its traditional Marxist-Leninist concepts. Let Khrushchev himself supply the answer. Here are his words:

"... Some people in the West are saying that the Soviet Union has supposedly changed its policy and therefore it has become easier to talk with us. This, of course, is incorrect. We were born communists, we live as communists and we will not die but will continue to make progress as communists." (19)

The Soviet communists have made a ~~stupendous~~ effort to put Khrushchev on a level with Lenin himself. Certainly Khrushchev has never departed from the fundamentals of "class struggle." In 1958, Khrushchev asserted:

"... We do not renounce class warfare. Class warfare will last as long as capitalism exists."

#### *Communist Principle of Deceit*

The principle of deceit governs all communist tactics and practices. Lenin made this abundantly clear when he said:

"... It is necessary to be able to ... agree to any and every sacrifice, and even—if need be—to resort to all sorts of stratagems, maneuvers, and illegal methods, to evasion and subterfuge...." (21)

"... The strictest loyalty to the ideas of Communism must be combined with the ability to make all necessary practical compromises, to 'tack' to make agreement, zigzags, retreats and so on...." (22)

Stalin was equally blunt:

"... Words are one thing—deeds something entirely different. Fine words are a mask to cover shady deeds...." (23)

While Lenin was referring specifically to the trade-union movement, his words are equally applicable to communist attempts to infiltrate and subvert non-communist organizations. Since the CP claims to be the "political party of the working class," communists concentrate their infiltration efforts principally on

the labor movement, although no influential non-communist group is immune to communist efforts to subvert it. Communists, however, are not interested in improving wages or working conditions. They are concerned only in manipulating trade-unions to accomplish communist aims.

Soviet trade unions are completely unlike those in America and exist essentially to further the communist cause. They are also used in the Soviet Union to keep down wages and increase production. This was made abundantly clear by Khrushchev when he said: "We must make trade unions a genuine Leninist school of administration and management, a school of communism for the millions of workers and employees. It is quite obvious that for this the Party must give the unions more practical assistance in their work." (24)

During Khrushchev's visit to the United States he met with a group of labor leaders in San Francisco on September 20, 1959. The Americans advanced our traditional views on the trade union movement which were denounced by Khrushchev during a violent exchange of words with Walter Reuther. The Soviet account of this meeting (25) was most inconsistent with the report of the American labor leaders (26). This incident is a vivid illustration of Soviet disregard for truth and the facility with which the communist propaganda machine can distort the truth for propaganda purposes.

#### *Communist Use of Aesopian Language (or Double Talk)*

A manifestation of the communist principle of deceit is the use throughout the international communist movement, of a jargon or phraseology peculiar to the communist. Aptly known as Aesopian language, it grew originally out of the writings of Karl Marx, Friedrich Engels, Lenin and Stalin. It was developed for protective purposes in getting over the "revolutionary message" of the communist conspiracy under the guise of legality and thus thought the deceitful use of words to more easily infiltrate various strata of life. This cryptic and involved phraseology, obscure to the uninitiated, permeates all communist publications.

There are two reasons why this complicated language is utilized. First, in every important pronouncement which provides communists with a guide to thought and action, there must be a strong reminder of their goal—the dictatorship of the proletariat through force and violence. This is constantly embodied in such Aesopian phrases as "strengthen Marxist-Leninist ideology and Bolshevik discipline."

Second, and equally important, communists must be instructed in the penetration of noncommunist mass organizations through which the masses can be directed and guided along the communist line in any particular period. This responsibility is conveyed through the communist directives, repeated over and over, "to broaden contact with the masses."

Thus, Aesopian language or double talk is a prominent communist deceptive device to fool noncommunists. Communist Aesopian language always has two sides—the deceptive line for public consumption and the real Party line to ad-

vance communism. Hence, the terms uttered by communists are vastly different in actual meaning. For instance, when communists demand "restoration of the Bill of Rights," they are seeking to eliminate legal opposition to communism, stop prosecution of communists, and grant amnesty to those presently in jail.

To further illustrate: Communists refer to their cause as a "Historic Mission." This Aesopian term, to communists, means the seizure of power, the establishment of the dictatorship of the proletariat, the abolition of capitalism, and the formation of the new, communist society. As the vanguard of the proletariat the communist party has as its "Historic Mission" the direction of the proletariat struggle toward a communist society. (27)

#### *Communist Theory of Revolution*

The inherently specious nature of communism is clearly illustrated by the current claim of its propaganda that communism can be attained without the use of force and violence. Realizing full well that a violent revolution will be necessary to overthrow capitalism, Marx, Engels, and Lenin made no effort to conceal this fact. Marx and Engels, in the concluding paragraph of *The Communist Manifesto* proclaimed:

"The Communists disdain to conceal their views and aims. They openly declare that their ends can be attained only by the forcible overthrow of all existing social conditions. Let the ruling classes tremble at a Communistic revolution...." (28)

Lenin was equally incorrect when he declared:

"...As long as capitalism and socialism exist, we cannot live in peace; in the end, one or the other will triumph—a funeral dirge will be sung over the Soviet Republic or over world capitalism...." (29)

However, because of the handicap that this basic element of communist theory has imposed on communist parties throughout the free world, contemporary communist leaders attempt to convey the impression that, in certain cases, it may be possible for communists to gain power by peaceful means. Khrushchev elaborated on this theory in his address to the 20th Congress of the CP of the Soviet Union in 1956. He said then that "the working class in a number of capitalist countries . . . is in a position . . . to capture a stable majority in parliament, and transform the latter from an organ of bourgeois democracy into a genuine instrument of the people's will." (30)

The utter deceit of this tactical maneuver is that Khrushchev is equally insistent that

"... The Marxist-Leninist doctrine is the banner of the international workers' movement and every communist party, if it is a genuinely communist party, is sacredly guided by this doctrine. Therefore, it is only natural that when meeting representatives of communist parties they express their fidelity to the revolutionary ideology of Marxism-Leninism...." (31)

Since the initiation of Smith Act prosecutions and the findings of the U. S.

Supreme Court that the CPUSA advocated force and violence, the communists have carried on a vigorous campaign to conceal their true aims. (32) Even the Soviets in their false peace propaganda have sought to lull the Western world into a feeling of false security that they seek only peaceful means to accomplish their purpose.

Again their deeds prove false their propaganda. The December 1959 issue of the *World Marxist Review* summarizes a communist text book entitled, "Foundations of Marxism and Leninism," designed to replace the 1924 book by Stalin on "Problems of Leninism." Here it is made crystal clear that force and violence is part and parcel of the communist revolution in the following words:

"... The Marxist Leninists, while noting the possibility of a peaceful revolution, nevertheless also see the inevitability, in a number of cases, of a sharp aggravation of class struggle. In countries where the military-police machine of the reactionary bourgeoisie is strong, the working class will encounter fierce resistance. There can be no doubt that in a number of capitalist countries the overthrow of the bourgeois dictatorship by armed class struggle will be inevitable." (33)

Despite current communist propaganda to the effect that communism can be achieved through peaceful means, Gus Hall, now general secretary of the CPUSA, swore under oath in 1934 that he would use force and violence to overthrow the United States Government. (34) There is no reason to doubt that Hall still holds this conviction.

#### *Communist Meaning of World Peace*

Equally deceptive is the so-called peaceful coexistence campaign which has been featured so prominently in communist propaganda of recent years. Peaceful coexistence was the predominant theme of all Khrushchev's remarks during his visit to the United States in September, 1959. He defined, interpreted, and explained it, crediting Lenin with having bequeathed this principle to international communism.

Actually, Lenin's writings prove convincingly what a hollow mockery the term peaceful coexistence is for communists. They are engaged in a continuous war aimed at achieving the ultimate world-wide victory of communism. Lenin insisted that the contention that lasting peace is possible under capitalism is "a most reactionary method of consoling the masses." He called it a means for "distracting their attention from the sharp antagonisms and acute problems" with illusions of an "ultra-imperialism" of the future." (35)

Not only do communists regard a lasting peace as being impossible under capitalism, but they insist that it can be achieved only under communism. According to Lenin, "outside of Socialism there is no deliverance of humanity from wars." (36) Eugene Dennis, national chairman of the CPUSA, echoed this thought in February, 1960, when he said:

"... unlike capitalism—a socialist society, by its nature precludes oppression

and wars of conquest and aggression. In the socialist lands . . . there is no material basis or other incentive for aggrandizement, territorial plunder, or war profiteering." (37)

While allegedly striving for a lasting peace, communists regard violence as an inevitable concomitant of the collapse of capitalism and the birth of the socialist society. Paradoxically, revolution is the only guarantee of lasting peace. Until then, peace, for communists, is only a respite which allows time to prepare for the next war. It is only a temporary, tactical peace designed to enable the USSR to build its strength for the final, inevitable, all-decisive combat which will result in the total destruction of capitalism.

Communist propaganda on peaceful coexistence deliberately glosses over the vital distinction which communist theory makes between a temporary and a lasting peace. In so doing, it attempts to create the impression that communists are working toward the achievement of a lasting peace; whereas they are actually interested only in a temporary peace until the time is ripe for the successful, final assault on capitalism.

Since Khrushchev has credited Lenin with formulating the principle of peaceful coexistence, it is well to recall what Lenin said regarding campaigns for peace. Lenin declared that "every 'peace programme' is a deception of the people and a piece of hypocrisy unless its principal object is 'to explain to the masses the need for a revolution, and to support, aid and develop the revolutionary struggle of the masses that is starting everywhere'" (38).

During his visit to the United States Khrushchev used as a major theme in addresses and statements the subject of "peaceful coexistence" 26 times." (39)

In plain English, when Khrushchev urges peaceful coexistence, he is telling communists that there must be time to remove the obstacles to final communist victory and security. Likewise, through his use of the "Big Lie" technique, he hopes to lull the Western world into a further state of complacency of unpreparedness and disarmament while not departing from the traditional communist concept of world revolution. When Khrushchev speaks of "peaceful coexistence" it must be remembered that Lenin wrote, ". . . great historical questions can be solved only by violence." (40)

". . . the adversaries of socialism . . . are apprehensive about our progress, which furnishes graphic evidence of the superiority of the socialist system over the capitalist system. A competition is unfolding between these two systems. We stand for the peaceful coexistence of states with different social systems and for competition between them in the economic sphere."

Continuing, Khrushchev used communist "double talk" to make his point and adhere to Marxist-Leninist doctrine when he said:

"When it comes to relations between the socialist and bourgeois ideologies there can be no coexistence, and we do not hide the fact. What is progressive has always won out over what is obsolescent and moribund. . . ." (41)

The Red Chinese Marxist leader, Mao Tse-Tung, who is now in an ideological conflict with Khrushchev over Leninist orthodoxy used more expressive language when he said:

"Every communist must grasp the truth that political power grows out of the barrel of a gun . . . in fact, we can say that the whole world can be remolded only with the gun." (42)

*Communist Concepts of Imperialism and Colonialism*

As the peaceful coexistence campaign illustrates, even words are used by communists as weapons in the class struggle. Thus, the phrase "people's democracy" is used to disguise the ruthless dictatorships which communists have inflicted on the European satellite nations. When this country found it necessary to send troops to Lebanon in 1958, communist propaganda castigated us as "imperialists." Yet, when Soviet troops had brutally suppressed the Hungarian uprising in 1956, they were "liberating" Hungary from the threat of "fascist counterrevolutionaries."

Communist propaganda charges that the United States is attempting to impose its economic and political domination over Canada and Latin America merely to increase the profits of American business. This charge, however, completely ignores the fact that we granted independence to the Philippine Islands and commonwealth status to Puerto Rico in accordance with the desires of the majority of the inhabitants of these two countries and statehood to Alaska and Hawaii.

Our action in the case of the Philippines and Puerto Rico contrast sharply with the manner in which the predatory communist empire has expanded. The Baltic Republics of Latvia, Lithuania, and Estonia were forcibly incorporated into the USSR. Communist governments were imposed on the European satellite nations by the ruthless suppression of noncommunist political parties. Communists gained power in China, North Korea, and North Vietnam through armed aggression. The uprisings in East Germany, Hungary and Tibet, and the millions of refugees from communist tyranny attest to the need for force to maintain communism in control.

Yet, communists are still not satisfied. Khrushchev summed up the imperialistic nature of communism—an inherent characteristic because of communism's dedication to world conquest—when he boasted:

"We Bolsheviks are a ravenous people. What we have achieved in the past is very little. We want more and more." (43)

*Communist Concepts of Democracy and Freedom*

In spite of the fact that communism retains control through fear and its counterpart force, communists, from Lenin to Khrushchev, insist that communism is the highest form of democracy. In 1917, Lenin claimed that "in capitalist society we have a democracy that is curtailed, wretched, false; a democracy only for the rich, for the minority." (44) Khrushchev reaffirmed this view in 1958 when he asserted that "bourgeois democracy is the democracy of the rich." (45)

As opposed to the "veiled dictatorship of wealth" which passes for democracy in noncommunist nations, communists offer "proletarian democracy" which, they hold, is a democracy of the toiling masses directed against exploiters. As the Program of the Communist International, adopted in 1928, explained:

"The Soviet form of State, being the highest form of democracy, namely, proletarian democracy, is the very opposite of bourgeois democracy, which is bourgeois dictatorship in a masked form...." (46)

Yet, the freedoms which we take for granted—freedom of speech, the press, assembly, and religion—are unheard of in practice in any communist country. The late Andrei Y. Vyshinsky, former Soviet representative to the United Nations, spelled this out unequivocally when he said:

"In our state, naturally, there is and can be no place for freedom of speech, press, and so on for the foes of socialism. Every sort of attempt on their part to utilize . . . these freedoms . . . must be classified as a counterrevolutionary crime...." (47)

Soviet law makes a mockery of the claim that communism insures full freedom. Clauses in the Soviet constitution guaranteeing such elementary rights as freedom of speech, the press, assembly, and religion, are nullified in practice by insisting that they must be exercised "in conformity with the interests of the working class, and in order to strengthen the social system." These "rights" cannot be used to criticize the Soviet state. Under communism, freedom is, in effect, the duty to support the official Party position and not the right to criticize.

The record of communism is one of mass enslavement and death, of the complete deprivation of individual freedom, and of a total disregard for the inherent dignity of man. The appalling loss of human life during the forced collectivization of Soviet agriculture, the terror of the infamous purge trials, the extensive use of slave labor, the forcible expansion of the communist empire during and after World War II, and the brutal suppression of the uprisings in East Germany, Hungary, and Tibe belie communism's assurances of democracy, liberty and freedom.

#### *Communists Talk Peace but Defend War*

Communist peace claims are shorn of their hypocrisy when the basic Marxist-Leninist principles are examined. War is a means of revolutionary change so long as it serves the interests of communism and so long as conditions are proper for a Soviet "just war."

Lenin laid down the principle from which there has been no deviation, as follows:

"If war is waged by the proletariat after it has conquered the bourgeoisie in its own country, and is waged with the object of strengthening and extending socialism, such a war is legitimate and 'holy'." (48)

Khrushchev in effect reiterated Lenin on September 30, 1959, in an address to Chinese communist leaders when he said:

"Marxists have always recognized only . . . just wars and they have always condemned imperialistic aggressive wars. This is one of the characteristics of Marxist-Leninist theory." (49)

To the communist there are just and unjust wars. Just wars are those fought for "liberation" from "capitalistic slavery" and in defense against foreign attack. Unjust wars are those fought against the Soviet or would-be satellite states or by capitalist states among themselves (unless the Soviets would benefit). (50) Thus, to communists it was a just war to march on Poland after the 1939 union between Moscow and Berlin but, of course, when Germany invaded Russia, it became an unjust war.

The Marxist-Leninist doctrine bans an unjust war but this doctrine obviously is a part of communist double talk designed to disarm genuine peace-loving peoples.

The true Soviet view has best been expressed by Marshall Boris M. Shaposhnikov who was Stalin's military adviser, in these words:

"We are interested in the question whether preventive war can be justified . . . such a war, provided it is of a progressive and revolutionary type . . . will be a just . . . war. There will be a moment when revolutionary masses . . . must resort to arms. The fact that, in such a struggle, it may be valid to enter into a preventive war needs no further explanation. The initiation of war does not deprive such a war of its inherently defensive character." (51)

*The point is simply this: on the just and Marxist-Leninist doctrines and morals would justify communists to make an unannounced, unprovoked, sneak attack upon the United States as a just war designed to bring the United States under the dictatorship of the proletariat.*

Lenin's sanctions are implicit in his teaching:

"Only after the proletariat has disarmed the bourgeoisie will it be able, without betraying its world historical mission, to throw all armaments on the scrap heap." (52)

### Communist Tactics and Strategy

#### Communist Meaning of Tactics and Strategy

Tactics have been defined by Stalin as "the ways and means, the forms and methods of fighting that are most appropriate to the concrete situation at the given moment and are most certain to prepare the way for strategic success." "Tactics," he said, "are a part of strategy, subordinated to and serving it." (53) *By tactics, Communists mean the immediate decisions, measures, and action which must be taken to achieve communist objectives.* Tactics vary rapidly in keeping with rapidly changing conditions, but the broad essential outlines of strategy remain unchanged.

Stalin has described the function of strategy to be "to determine the main direction which ought to be taken by the working-class movement, and along

which the proletariat can most advantageously deliver the main blow at its enemy." (54) *Strategy represents a detailed analysis of all possible forces available in the struggle for a world communist society. It's the grand, over-all blueprint of the conflict.*

In communist strategy, the assumption is that a clash with the noncommunist world is inevitable; therefore, all communist sources of strength—economic, political, military, propaganda, etc.—are to be used where they are strongest and most productive of desirable results. By the same token, noncommunist sources of strength are to be hit and destroyed where they are the weakest and least productive.

Since all communist parties are modeled after the CP of the Soviet Union and are, for the most part, minority groups striving for power, they use common tactics. Nevertheless, while these tactics are basically identical, they are applied with skillful diversity and flexibility depending on local social, economic, and political conditions. The current communist economic-political offensive has not resulted in the abandonment of such traditional communist tactics as propaganda, the united front, and the infiltration and subversion of noncommunist groups. These are now being implemented by extensive programs of economic and technical assistance, exchange of visitors, and diplomatic maneuvering.

In applying tactics, communists are not bound by any legal, moral, or ethical scruples. Any action—legal or illegal, moral or immoral, peaceful or violent, open or secret, "democratic" or "dictatorial"—is justified if it advances the cause of communism. Since their morality is relative, depending solely on the immediate needs of the class struggle, communists have never hesitated to use such tactics as armed aggression and guerrilla warfare, individual and mass terrorism, abrogation of treaties, espionage, and sabotage to promote communist objectives.

#### *Existence of Underground Apparatus*

The concept of an illegal, secret, or underground apparatus paralleling the legal, open or aboveground CP is a basic communist tactic. In the words of Lenin, communists "must everywhere create a duplicate illegal apparatus, which, at the decisive moment, could help the Party to perform its duty to the revolution." (55)

Thus, in every country where communists are unable to carry on their work lawfully, they invariably resort to a combination of lawful and unlawful work. The CP of the Soviet Union originally came into existence as an underground group. The CPUSA is essentially the same type of clandestine body as that which was established and developed by the Bolsheviks in Russia and is likewise the product of decades of communist underground activity.

The purpose of an underground organization is to provide the CP with a hard-core leadership protected by maximum security measures designed to survive government action and to preserve the continuity of the CP organization and its program under the most adverse conditions. The underground apparatus

of the CPUSA has existed since the Party was founded in 1919. Under conditions favorable to the Party, it has contracted, while during periods unfavorable to the Party it has expanded, but at all times, the apparatus has remained in existence.

Mr. Khrushchev's visit to the United States was the signal to American communists that the time was ripe to shift from covert to open activity. With the 17th convention of the CPUSA last December, the CPUSA overnight transformed itself into a militant, aggressive organization dedicated to inject Marxist-Leninist concepts into the mainstream of American life.

Archie Brown, a long time communist leader, was a candidate for the San Francisco Board of Education last November. He polled 33,000 votes or 13 per cent of the votes cast. He attributed his success to Khrushchev's visit and speeches on peace. (56)

The extent of the organization and control of the underground or the open phase of the Party's activities appears to vary in direct ratio to the pressure, applied against it by the government. This pressure, in the United States, for instance, can take the form of anticommunist legislation, such as the Smith Act of 1940, the Internal Security Act of 1950, and the Communist Control Act of 1954, or it can be brought about by the various congressional or state committees investigating communism.

#### *Aggression as Means to End*

Primarily by means of the tactics of open or concealed aggression, communism has grown from a handful of Lenin's followers in 1917 to an international movement now comprising a billion people. To communists, since the end justifies the means and since the proletariat and the bourgeoisie are engaged in a permanent state of war, there is no question of aggression or nonaggression, but only one of offensive and defensive movements in a ceaseless battle between sworn enemies.

Communist aggression as we know it today, started with the establishment of the Soviet Union. The following examples of such aggression are most vivid:

Soviet Georgia, whose independence was recognized in May, 1920, was invaded by Stalin in February, 1921.

The Ukraine was forcibly annexed by the USSR in December, 1922.

Poland, with whom the Soviets negotiated a nonaggression Treaty in 1932, was invaded by the Soviets from the east in September, 1939, while the Nazis invaded from the west.

Finland was invaded by the USSR in November, 1939.

Estonia, Latvia, and Lithuania were all forcibly annexed by the Soviet Union in August, 1940.

China (1945-1949), Malaya (1945-1951), the Philippines 1945-1948, Indochina (1945-1954), and Greece (1946-1949) were all wracked by communist civil wars.

Rumania, Bulgaria, and Hungary, with whom peace treaties were signed by the USSR in September, 1947, were invaded by Soviet troops in April, 1948, August, 1948, and February, 1949, respectively.

Korea was the scene of a bloody war between communist aggressors and United Nations forces from 1950 to 1953.

Tibet was invaded by Chinese communist forces in 1950.

Hungary was crushed by Soviet troops which moved in to put down the October, 1956, revolt against the local communist government. (57)

That communists have not changed their views on aggression was made plain by Khrushchev in his speech before the 20th Congress of the CP of the Soviet Union in 1956. He said then that "there is no doubt that in a number of capitalist countries the violent overthrow of the dictatorship of the bourgeoisie and the sharp aggravation of class struggle connected with this are inevitable." (58)

#### *Propaganda as Weapon*

Propaganda has become the most powerful single weapon in the communist arsenal as the means of arousing the masses, luring them towards communism, and preparing and organizing them for revolutionary activity. Propaganda is viewed by communists as a tactic to be used constantly and in close co-ordination with other tactics. It is utilized both to supplement military, conspiratorial, diplomatic, or economic measures and to substitute for them when these measures are impossible, impractical, unproductive, or uneconomical.

The beginning of modern communism was dramatized by *The Communist Manifesto*, published in 1848 by Marx and Engels. This communist "classic" in itself is little more than propaganda. For the next half century, the ideas of Marx and Engels were kept alive, with virtually no organization, backing, or support, by the propaganda of their adherents. Marx and Engels did not concern themselves seriously with problems of organization, tactics, and strategy. They dealt with ideas and events, which are the weapons of propaganda. (59)

In the years since Marx and Engels, leaders of the international communist movement have valued and utilized propaganda above all other types of activity. As far back as 1902, Lenin stressed the necessity for "propaganda and agitation among all strata of people." (60) In 1939, Stalin noted that "if our Party propaganda for some reason or other goes lame . . . then our entire state and Party work must inevitably languish." (61) Eugene Lyons, now national chairman of the CPUSA, has urged the CPUSA to "improve every aspect of our mass agitation . . . so as to reach and convince millions of workers and progressives and set them in motion." (62)

Communist propaganda aimed at noncommunist Americans is intended to "educate" the masses along Marxist-Leninist lines and to gain their support in order that the masses may be maneuvered and mobilized into eventual revolutionary action for the overthrow of the Government. No segment of the population and no sphere of activity in this country has been overlooked or neglected.

by communists as targets for their propaganda—particularly youth.

Of the torrent of propaganda which has flooded the world through the years, communist propaganda has been the most expertly conceived and executed. In falsehood, imagination, audacity, intensity, volume, and effectiveness, communist propaganda on a world-wide scale dwarfs all other propaganda efforts in history.

#### *Exploitation of Cultural Exchanges*

The tactical use to which communists have put cultural exchanges has gone far beyond the original purpose of promoting mutual understanding through expanding people-to-people relationships.

On the surface, there is seemingly a favorable balance between the number of delegations which the United States and the USSR have exchanged. In the past two years, both countries have exchanged approximately 1,500 people each, involving more than 100 projects of each country. But, in addition to using some of these groups for intelligence activities, the Soviets further violate the purpose of such exchanges by deliberately restricting the free flow of ideas through the control they establish on their groups. Each Soviet group has its "spokesman" who not only speaks for the group, but also insures that members of the group do not become ideologically disoriented through contacts and discussions with Americans.

Perhaps the greatest disparity in the approach of the two countries to expanded people-to-people contacts involves tourists. Originally, the major theme of Soviet propaganda was that the United States maintained an "iron curtain" against tourists because of a law which required fingerprinting aliens. When that objection was removed by the waiver of fingerprinting requirements, Soviet propaganda switched to the theme that excessive cost prevented extensive tourist travel from the Soviet Union to the United States.

The so-called tourists the Soviet Government has permitted to travel here differ markedly from their American counterparts. In the first place, Soviet "tourists" come here in groups and not individually or as members of small parties as is customary with Americans. In the second place, Soviet groups show an amazing similarity of interests and occupations: One group, for instance, will be composed entirely of scientists; another group wholly of economists; and so on. Moreover, these "tourists" groups are not interested in sight-seeing, but rather in obtaining specialized technical and scientific data. In short, Soviet tourism is used as another form of espionage, just another method of collecting valuable information in the ceaseless intelligence efforts which the Soviets direct at this country.

#### *Weapon of World Trade*

Next to the propaganda weapon, trade has become the most important tactic employed by the U.S.R. in the past several years. Trade is now being utilized as an economic and political instrument in the struggle for the victory of com-

munism.

Behind the Soviet decision to use economic transactions as political weapons is the belief of Soviet leaders that the decay of capitalism predicted by Marx and Lenin can be accelerated. The emphasis on a substantial expansion of trade relations both with the communist nations and with noncommunist countries serves as a psychological weapon. Apart from the inherent benefits of economic relations between nations, plans for intensified trade and financial aid lend themselves to propaganda exploitation. The Russians have developed as masters in publicizing successfully whatever promises they have made to other countries, often out of all proportion to their actual performances.

The long-term objectives of the Soviet bloc in its economic relations with the free world are (1) to supply their economy, especially the industrial-military base, with imports that help the bloc become more powerful and less dependent on the noncommunist world; (2) to drive wedges among noncommunist nations at every opportunity; (3) to increase the reliance of noncommunist countries on the Soviet bloc for markets and supplies, thereby making the free world more vulnerable to communist pressure; and (4) to prevent, by trade and credit manipulation, any defections of neutral or uncommitted nations to the side of the West.

The economic tactic has been employed by the USSR in its frequent purchases of large quantities of various commodities to propagandize their so-called position as a "friend" of underdeveloped or "colonial" nations. In July, 1956, for instance, the Soviets signed a deal with Cuba for the exchange of a million tons of Cuban sugar annually at the world price in exchange for Soviet machinery. The Soviets loudly proclaimed the agreement to be an act of friendship with Cuba, a nation long subjected to "American economic domination."

What the Soviets did not admit was their purchase in September, 1959, of 330,000 tons of Cuban sugar below the world price. (63) Neither did the Soviets publicize the fact that the United States had an agreement with Cuba whereby we paid that country about three cents per pound above the world sugar price. (64)

#### *Building Communism with Noncommunist Hands*

As a minority group in such noncommunist countries as the United States, the CP is dependent on the support of noncommunists for the achievement of its goals. To gain this support and to extend its influence beyond the orbit of its own membership, the CP ceaselessly endeavors to maintain and expand its contact with people in all walks of life.

The importance which communists attach to noncommunist support is indicated by their incessant repetition of the phrase "contact with the masses." The CP considers the masses as subject to continuous exploitation under the capitalist system. It has arrogated to itself, as the "political party of the working class," the "duty" of leading them to their eventual "emancipator" under a communist form of government.

Leaders of the communist movement are well aware that the proletariat must be "educated" if the ultimate overthrow of the capitalist system is to be accomplished. For this reason, the "political education" of the masses along Marxist-Léninist lines has always been regarded by communists as of primary importance. Thus, the tactics of propaganda and agitation are directed at the masses with the objective of maneuvering and mobilizing them for action and conscious participation in the building of the new socialist order under the communist banner.

The desires and the will of the Party are also transmitted to large masses by means of noncommunist, non-political organizations. People belong to various organizations for specific purposes and needs. But as far as communists are concerned, these organizations are to be exploited as mere "transmission belts" to enable a small party of revolutionists to enlist the support of the unsuspecting masses.

Gus Hall, General Secretary of CPUSA, on behalf of the Party's National Secretariat, issued a directive on May 19, 1960, which said under the heading "Reaching out to the masses":

"It is necessary here that primary attention be given to the relationship of our Party leading forces with other left-progressive leaders who are active in the field of peace activities. . . . Even where differences exist or may continue to exist, mutual agreement can be established for a common effort." (65)

The above document further stated: "The task continues to be that of supporting and helping to build and influence mass peace movements among them . . . Church and other organizations. . . ."

#### *Tactic of Infiltration*

Infiltration is one of the oldest and most widely used of communist tactics, long advocated by Lenin and other communist leaders and theorists. Infiltration gives the CP a foothold among noncommunists, helping communists to disseminate their propaganda and to extend their influence in areas of society which would normally be closed to open communist activity.

Lenin instructed that "in all organizations without exception—unions and associations, primarily proletarian, and also organizations of the nonproletarian, toiling and exploited masses (political, industrial, military, toiling, cooperative, educational, sports, etc., etc.), groups or nuclei of communists should be formed." (66) The tactic of "boring from within" the labor movement was also enunciated by Lenin (67).

Communist use of the Trojan-horse tactic, first announced in 1935 by Georgi Dimitrov, then general secretary of the Comintern, (68) has been faithfully and extensively used ever since. Gus Hall, general secretary of the CPUSA, reiterated the need for infiltration at the 17th national convention of the CPUSA in December, 1959. He declared: "We want to participate in, organize, and lead the broadest of the united front movements—on every level—in a thousand ways, in 10,000

places, on 160,000 issues—if possible, with 180 million people.” (69)

On February 8, 1960, J. Edgar Hoover, Director, Federal Bureau of Investigation, testified before the House Sub-Committee on Appropriations: “We now have 160 known or suspected communist front and communist infiltrated organizations under investigation. These various fronts exploit every susceptible segment of American society.”

Most cynical and sinister are communist attempts to penetrate Negro organizations. Communists are always claiming to champion the rights of the Negro, but their primary interest is in causing racial tension and creating embarrassing or dangerous situations which will aid and abet the communist cause at the expense of the Negro.

#### *Fronts as a Screen*

The front organization is a screen or cover behind which many of the political, agitation and propaganda activities of the CP are carried on. Communists in the United States—as elsewhere throughout the world—have long made extensive use of fronts as a tactic to camouflage the real source and direction of their subversive operations.

The utility of fronts was recognized years ago by both Lenin (70) and Stalin (71). They held that mass organizations, or “transmission belts,” under the influence and direction of the CP, are indispensable in mobilizing, organizing, and maneuvering the masses to bring about the transition from capitalism to communism.

In 1920 the then secretary of the Comintern, Otto Kuusinen, popularized the tactic of “transmission belts.” He stressed the necessity of creating “a whole solar system of organizations” working under the domination and guidance of the CP. (72).

Communists exercise great pains to hide the communist origin and character of their fronts. Fronts are given highly innocuous, idealistic, or patriotic names to conceal the true reason for their existence. To give an aura of legitimacy and respectability, communists resort to the familiar practice of exploiting prominent persons. An impressive list of notable and distinguished persons is compiled to serve as window dressing for a front. Communists know that the names of scientists, educators, writers, clergymen, and other well-known individuals associated with a communist front will have a favorable effect on the unsuspecting.

Before World War II, many communist front organizations in this country were affiliated with various international communist fronts. The enactment of the Internal Security Act of 1950, however, prompted American fronts to relinquish their formal ties abroad.

The current relationship between international fronts and their American counterparts is manifested in the World Youth Festival, which has been held every two years since 1947. These festivals, sponsored by two international communist front organizations—World Federation of Democratic Youth and

the International Union of Students—have been conducted solely for the propaganda benefit of Soviet Russia. A number of young Americans, many of them members of various communist youth fronts in this country, have attended these festivals as delegates or visitors.

*Espionage Activities:*

Espionage and sabotage are two more important communist tactics. As the number one target of world communism, the United States naturally is the prime objective of Soviet espionage.

The U2 incident seized by Krushchev as the vehicle to sabotage the recent ill-fated Summit Conference further illustrates communist deceit and hypocrisy. The Soviets stole the secrets of the atom bomb through espionage and numerous other scientific breakthroughs. Even while Krushchev was touring the United States on his Peace Mission in 1959, Soviet officials were violating their hospitality by carrying on espionage in that two Soviets were photographed by FBI agents when they were carrying on negotiations to steal the secrets of U.S. cryptographic machines. (73) The Soviet views espionage as it does "just" wars. If the espionage is to benefit the Soviet Union, it is just. If it harms the Soviet Union, it is unjust. While communist spies denounce wire tapping, the Soviet Union installs microphones in United States Embassy Offices, as demonstrated when Ambassador Lodge at the United Nations produced the Great Seal of the United States from the office of our Ambassador to Russia containing a clandestine listening device.

Congressman Gallagher of New Jersey rendered a distinct service to the country when he inserted a long list of names of Soviet espionage agents who had been exposed in the Congressional Record of May 19, 1960. Much additional evidence of Soviet espionage has been publicly disclosed.

Since the United Nations presentation by Ambassador Lodge, the Senate Internal Security Subcommittee in June 1960, issued as a public document a 63-page Summary of Soviet Espionage sent to the Attorney General by J. Edgar Hoover. This document reflects great credit on the FBI in ferreting out espionage and it is obvious that the FBI knew and reported the existence of Soviet espionage.

On the other hand the West German Defense Minister, Franz Joseph Strauss, was quick to charge publicly that there were 40,000 Soviet espionage agents working in West Germany and that more than 2,000 Red spies had been caught.

In recent years, an over-all expansion of Soviet bloc intelligence activities against the United States has taken place. There has been a widespread use of "legal" agents operating under the guise of diplomatic status. Soviet defectors state that between 70 and 80 per cent of Russian officials in this country are members of Red Intelligence services. There are indications, further, of a general tightening-up of the organizational structure of the Soviet intelligence apparatus. (75) (76)

The importance that the USSR is currently attaching to the value of these

intelligence age its is vividly borne out by the sharp increase in the number of Soviet diplomatic personnel assigned to this country in recent years. Intensified communist espionage efforts in the United States expose the utter fallacy of the era of so-called peaceful coexistence. (77)

Information sought by communist espionage agents is extensive and varied, including the following subjects: scientific research and development, with particular attention to atomic energy, missiles, radar defense, electronics, and aeronautics; the strength, deployment, training methods strategy, and tactics of the Armed Forces, as well as ordnance, weapons, and military equipment; the intelligence and counterintelligence agencies of the United States; and possibilities for penetration; international relations of the United States; weaknesses of prominent Americans in their public and private lives that can be exploited for intelligence and propaganda purposes; and anti-Soviet political opposition groups, refugees from the USSR and satellite countries, and nationality groups in the United States. (78)

The techniques used in communist espionage operations are typified by the case of Rudolf Ivanovich Abel, a Colonel in the Soviet Security Service, who was uncovered by the FBI in June, 1957, and is now serving a 30-year sentence for espionage.

Abel entered the United States by way of Canada on a passport which had been issued originally to a naturalized American citizen of Lithuanian extraction. Abel set up headquarters in New York City, ostensibly as a commercial photographer. In his properly equipped studio, he had three short-wave radios, a tape recorder, a miniature camera, a number of hollowed-out items--such as a wooden pencil, a shaving brush, cuff links, etc.--for concealing microfilm messages, along with other paraphernalia.

Twice a week, Abel tuned in to Russia on one of his radios, receiving carefully encoded instructions. Then, using a second code, he deciphered the messages for transmittal to his subordinates. When forwarding information to the USSR, he placed his microfilmed data in one of the numerous "dead drops"--bottoms of park benches, under fences, and the like--designed by his Soviet superiors. These messages were eventually picked up and sent to the Soviet Union by other members of his espionage network.

It is significant that Abel can have visitors in the Atlanta Federal prison, although our Ambassador to the USSR as of June 12, 1960, has not been able to see Francis Powers, the pilot of the U2. Nor does the United States have knowledge as to how the confession was extracted from Powers although it is known that the Soviet spy Abel so far has remained silent and his rights are protected by our Courts.

#### *Sabotage Potential*

Although there is no conclusive evidence of Soviet-directed sabotage in the United States at the present time, in the event of a national emergency or a war with the United States, the USSR possesses capabilities to conduct sabotage

and to otherwise disrupt the internal security and national defense efforts of our country.

Members of the CPUSA and its adherents are capable of organizing saboteur units or teams of varying sizes. Intensive sabotage could be expected to be timed or coordinated with a surprise Soviet military attack, coming just before, coincidentally with, or immediately after the initiation of open hostilities. The Soviet sabotage capability is enhanced by the vulnerability of American industry which makes possible strikes or slowdowns in many industrial plants.

In addition, communists possess other disruptive or subversive capabilities, with their objectives of infiltration of the Government and the Armed Forces, the penetration of noncommunist organizations, and the use of front organizations. Communists could be in a position, and even now seek, to undermine the confidence of the American people in their Government, its policies, its institutions, and its leaders; to impede defense production, transportation, and communication through strikes or slowdowns; to reduce the efficiency of the armed services by adversely affecting morale and the will to fight; and to cause civil disturbances and panic. (79)

There are a number of obvious communist sabotage targets in the United States. (80) Transportation sabotage targets include docks and other shipping facilities, important railroad junctions and yards, bridges, canal locks, and airports. Communications sabotage targets include transmission lines, power stations, and the more important controls and switchboards. Sabotage targets in basic industries, without which a modern war cannot be successful, would include supplies of coal, iron, steel, and related items. Vital defense installation targets include atomic energy, electronic, and chemical plants. Sources of food and water supply targets include warehouses, grainfields, cattle and sheep herds, reservoirs, and sewerage systems. (81)

#### *World Conquest*

The ultimate objective of communism, made abundantly clear by its principles and by its tactics and strategy, is world domination. Communist teachings, from the time of Marx, have consistently proclaimed that capitalism is moribund and is historically destined to be superseded by communism.

Krushchev has been particularly voluble on this point. During his visit to the United States last year, he repeatedly stressed the theme that "capitalism is an outmoded system which is doomed to inexorable death" and that "the future belongs to communism." (82) In the same vein, William Z. Foster has predicted that the capitalist system is dying "regardless of its desperate struggle to survive." (83)

This optimistic view is explained by the communist dogma that the triumph of communism is inevitable because it has already been determined by laws as valid as those which govern the physical sciences. It is for this reason that communists regard themselves as "riding the wave of the future" toward their "rendezvous with destiny."

Communist propaganda does not stop with the claim that communism is invincible and that its triumph is inevitable. Its propaganda attempts to depict the communist orbit as a world of peace, progress and prosperity in contrast with the noncommunist world, which is allegedly characterized by social unrest, economic exploitation, and political upheaval. Through this technique, the ultimate victory of communism is represented, not only as a historical inevitability, but as the conquest of right over wrong and of good over evil.

Communists realize, however, that, in order to attain their ultimate goal, they must accomplish a number of short-range, more immediate objectives designed to leave the noncommunist opposition hopelessly weakened, divided, and confused in the face of the communist challenge. These transitional goals will, naturally, vary to some degree in different noncommunist nations, depending on local conditions. For this reason, the discussion of these short-range aims has been limited to those which are generally valid throughout the noncommunist world.

#### *Cripple National Defense*

Communists respect only power, and hence they are well aware that strong noncommunist military forces are the strongest deterrent to their program of world conquest. Conversely, the weaker a nation's defenses, the easier it becomes for communists to seize power either from within or from without.

Communists therefore try in all possible ways to demoralize and weaken the armed forces of noncommunist nations. They follow Lenin's dictum that communists cannot "gain power or consolidate it except by absolutely disintegrating the old army." (54) The Comintern in 1920 outlined the steps to subvert armed forces by indicating that a "persistent and systematic propaganda and agitation is necessary in the army, where communist groups should be formed in every military organization." (85)

In the United States, propaganda and agitation aimed at the armed forces have always been designed to lower morale, undermine discipline, discredit officers, exploit petty grievances, promote pacifism, and even incite rebellion. Immediately after World War II, communist propaganda capitalized on the natural desire of American soldiers to return home from overseas. Protest demonstrations by American servicemen took place in the United States, in Europe and in the Far East. As a consequence, our military strength was drastically reduced over the vigorous objection of our military leaders.

Today, communist propaganda paints an enticing picture of the great number of schools, hospitals, and roads which could be constructed in the United States if the money being expended for our defense and for military assistance to our allies could be diverted to "peaceful" purposes. But American communists soft pedal the tactics of Krushchev's sabre rattling; the Soviet armament race which places an economic burden through higher taxes upon every American family.

Throughout the postwar years, communist propaganda has unqualifiedly

condemned every action we have taken to strengthen ourselves and our allies against the threat of further communist aggression. The obvious communist objective is to weaken the national defense not only of our Nation but of the entire free world in preparation for further communist aggression.

During the past several years, communists have engaged extensively in espionage activity in order to procure the military secrets of noncommunist nations. While ostensibly our allies during World War II, the Soviets were successful in obtaining information regarding our most closely guarded secret, the Atom bomb.

Communist espionage has not been limited to the United States however. In August, 1954, for instance, a former intelligence officer in the Japanese Army confessed to spying for the Soviet Union. In March, 1956, the Government of Iran expelled the Assistant Military Attaché of the Soviet Embassy for spying. In December, 1956, a Finnish citizen was convicted of furnishing the USSR secret information on Finland's military forces. In January and February, 1957, two Soviet diplomats were expelled from Denmark for espionage activity. In January, 1957, two Swedish engineers, employed by the firm which was constructing Sweden's underground air and naval bases, were arrested as Soviet espionage agents. In November, 1958, a Swiss Army officer confessed that he had furnished classified military data to Czech espionage agents. (86)

Yet, in the face of the demonstrated military might of the communist Bloc and the use to which it has been put in North Korea, North Vietnam, East Germany, and T'ien-tsin, communist propaganda claims that their communist military forces are maintained only for "defensive" purposes.

#### *Weaken Internal Security*

As the nation which is the principal barrier to further communist expansion, the United States is being tested daily by persistent attacks on the domestic front from the CP, its fronts, and sympathizers. These onslaughts are aimed at weakening our internal security programs so that communists will be unmolested in their subversive activities. The primary targets of these attacks are our courts, the Congressional committees which have been so successful in keeping abreast of communist activities in this country, the law and regulations which comprise our security programs, police departments, the armed services, and the FBI.

In communist propaganda, American courts are branded as "class instruments" dedicated to the preservation of the capitalist system and its exploitation of the masses. Congressional investigating committees are picketed and condemned for conducting "red-baiting" investigations. The laws and regulations designed to keep our Government free from communist infiltration are under continuous communist fire as "repressive" and "reactionary." Communist smear campaigns are especially bitter in their assaults on the FBI. Their deliberate aim is to discredit the FBI in its responsibilities for protecting the Nation's internal security in the hope of causing its withdrawal from this vital field.

All of these attacks, of course, are in line with the basic communist objective of destroying those elements in any free society which are actively resisting the further propagation of communism.

#### *Undermine National Economy*

A strong, vigorous economy is one of the soundest bulwarks against the communist penetration of any noncommunist country. For this reason, another short-range communist objective is to weaken and disrupt all noncommunist economies as "proof" that capitalism is incapable of ministering to the best interests and welfare of the working class.

Communists incite strikes and slowdowns to disrupt industrial production and create economic unrest. During 1959, for example, Soviet and Satellite diplomats were expelled from both Mexico and Argentina, when they were detected directing street riots and industrial strife in conjunction with local communists. (87)

The extensive program of communist economic aid to underdeveloped nations is now being accompanied with propaganda warnings of the alleged harmful effects of aid from noncommunist nations. Communist economic aid which is given, however, is intended to enhance the popularity of communist nations, as well as to encourage the development of the economies of noncommunist countries along the communist pattern.

In a gross oversimplification, communist propaganda claims that Western—particularly American—economic aid is planned to keep underdeveloped nations in a permanent colonial status because it is concentrated on agricultural or light industry rather than heavy industrial development. Communist propaganda contends that only communist nations are genuinely interested in advancing the heavy industrial development of underdeveloped countries. In short, Communism seeks to identify itself with nationalism and to align the West as opposed to self-determination.

Yet, if underdeveloped nations accept long-term communist aid for investment in heavy industry, the almost inevitable effect is that native labor, transportation, power, and raw materials will be devoted, to a large extent, to such enterprises which hold no immediate promise of an improvement of the general standard of living.

This, of course, was the decision of the Soviet leaders when they decided to transform the USSR into an industrial nation at the expense of the living standards of the people and is the policy which is being pursued today in Red China (88).

International trade is also used by the communist bloc as both an economic and a political weapon. For them, foreign trade is a form of economic-political warfare intended to promote international communism. Since communist foreign-trade agencies are controlled by the State, communist nations can buy, barter, or dump any commodity at the appropriate time to exploit any economic vulnerability of the Free World nations.

In payment for Czech military aid in 1955, Egypt sold its cotton to the Soviet bloc below the world price. Later, when the market price rose, the Czechs sold the Egyptian cotton to West European countries lower than the world price, at a profit despite their agreement not to sell to Egypt's regular customers. (89) Another case involved tin, of which the Soviet Union has been a traditional importer. Yet, during 1957 and 1958, the Soviet Union sold sizable quantities of tin on the world market at well below the market price. This maneuver substantially disrupted the export markets of such nations as Malaya, Indonesia, Thailand, and Bolivia, causing serious economic and social repercussions in these nations. (90)

Communist bloc nations, at the same time, are attempting to develop their own economies in an effort to prove that communism has the answer for those countries which are striving to transform themselves from an agricultural economy to a growing industrial economy in as short a period as possible.

#### *Exploit Racial Strife*

Communism resorts to a cynical exploitation of racial strife in its ceaseless efforts to advance Red totalitarianism. Racial violence, hatred, and bigotry throughout the world are grist for the communist propaganda mill. Such incidents are used by communists to show communist "concern" for the victimized race, to turn that "concern" to political, economic, and propaganda advantage, and to inflame the victimized race against noncommunist governments.

In the United States, the Negroes, the largest minority group in the country, have been subjected to intensive and extensive communist agitation and propaganda. Communists have tried to make the Negroes more conscious of discrimination and to create in them an attitude of bitter resentment and hostility toward the rest of American society. They hope that this will encourage negroes to look to the Communist Party for leadership.

An additional objective of communist exploitation of racial strife in this country is to produce an anti-Americanism effect on the rest of the world, especially among the nations of Africa and Asia. Any hatred which can be generated against the United States is, of course, helpful to the cause of World communism.

Communist efforts to exploit the grievances of minority groups throughout the free world are particularly hypocritical in light of the repression of the national minorities in the Soviet Union and incontrovertible evidence of widespread anti-Semitism there and in the European satellite nations.

#### *Create Domestic Disunity*

A nation strongly unified in all the basic aspects of its national life is not susceptible to easy conquest either by a fifth column or by another nation of equal military strength. Communists recognize that the chances of seizing power militarily, by insurrection, or peaceful means are much greater if they have first divided and weakened the target nation as much as possible—socially, economically, and politically.

For this reason, communists make every effort to demolish national unity, to divide a country's citizens into bitter, warring factions so that they cannot unite in a common effort to defend their freedom from destruction. Lenin said that for communists to conquer a more powerful enemy they must take advantage of and exploit "even the smallest 'fissure' among the enemies." (91) In keeping with this objective, communists seek everywhere to divide nations into opposing factions: labor and management, Negro and white, young and old, native born and foreign born, "liberals" and conservatives, "people" and government, students and teachers, etc.

Much labor strife in this country in the past four decades can be attributed in part, at least, to communist success in disseminating the Marxist doctrine that there is a natural, fundamental, and irreconcilable antagonism between labor and management. This is not to imply that labor in general has been imbued with communist ideology or has been responsible for most labor-management difficulties. But it is an indisputable fact that a number of unions in the Congress of Industrial Organizations were, until their expulsion in 1949-1950, dominated and controlled by communists who used their positions to promote class hatred and labor antagonism toward management.

#### *Discredit United States Foreign Activities*

Communists throughout the world are continuously attempting to discredit the United States in the eyes of the world in order to lower our Nation's prestige and influence. To accomplish this, communists denounce or deride United States activities abroad, claiming that this country is motivated by purely "selfish," "aggressive," "imperialistic" interests and is desirous only of enslaving, economically and politically, the rest of the world. The world-wide communist propaganda machine strives assiduously to plant the seeds of anti-Americanism in the minds of people in every country.

Communist criticism of United States foreign affairs also has the secondary objective of reducing the free world's resistance to communist subversion and aggression. The Soviet Union has the assistance of the CPUSA and other Communist Parties around the world to heap vilifications upon our Foreign Service. Honest differences and disagreements between this country and other nations are magnified beyond all proportion and truth. The emotions of various peoples are aroused by communists to strain the traditional bonds of friendship the United States enjoys with so many other countries. The manifestation of anti-American sentiments gives communists an opening wedge in their efforts to shatter the unity of noncommunist nations in the defense against World Communism.

On the occasion of President Eisenhower's visit to Latin America in February, 1960, Radio Peking broadcast in Spanish that the President was trying to "deceive the peoples of Latin America" with promises of friendship. At the same time, the radio said, "The Latin-American people know well that the trips

of the so-called peace messenger are synonymous with increasing war preparations" on the part of the United States. (92)

The storming of the American Embassy in Tokyo, Japan, was carried on by a communist-inspired and organized mob designed obviously to discredit our President on his trip, and their success was a slap in the face to world recognized leadership our President has given to furthering peace.

The communist campaign to discredit the United States throughout the world has also been accompanied by propaganda bent on emphasizing the "superiority" of life in the communist bloc. Moreover, the noncommunist world is reminded that only communists can offer true and lasting solutions to the World's pressing problems. The 21st Congress of the CP of the Soviet Union in 1959 spelled out that claim in a resolution to the effect that "the ideas of communism have become the leading force of our time." (93)

This propaganda has been implemented by practical efforts to crystallize such divergent elements as revolution, nationalistic patriotism, dissatisfaction, and idealism throughout the free world into at least a conscious anti-American or at best a strongly pro-communist pattern of activities. Trade exhibits, economic and technical assistance, exchange of visitors, and diplomatic maneuvers are all designed to portray communist nations as genuinely interested in "peaceful" coexistence and competition as opposed to the "warmongering" activities of the United States.

#### *Neutral World Organizations*

Communists look upon noncommunist international organizations such as Red Cross, the Boy and the Girl Scouts, and numerous others as instruments of the capitalist world and therefore obstacles to the propagation of communism. These organizations, of course, are motivated by the loftiest of ideals and are dedicated to the betterment of all mankind. Communists reason that, since these organizations are not under communist control, they must be capitalist-dominated and hence anti-communist.

The Red Cross, despite its long record of good works and public service, has been maligned repeatedly by communists. In this country, communist propaganda has alleged that the Red Cross "discriminates against strikers, radicals, foreigners." (94) The Boy and Girl Scouts, who provide important moral and practical training in preparation for life in a democratic society, have been derided by communists as preparing "staunch defenders of and fighters for capitalism." (95)

The Soviet Union has sabotaged the work of the United Nations since its very inception. Its chief weapons have been the veto, cast nearly 90 times, and the boycott, whereby Soviet delegates have walked out of Security Council proceedings. In addition, the USSR has refused to participate in such United Nations agencies as the International Monetary Fund, and others. (96)

The irony of the communist bloc's refusal to collaborate fully with the United

Nations is that communist countries never lose an opportunity to use the United Nations as a sounding board for their propaganda. Thus, world communism has abused the prestige of the United Nations for its own purposes and contributed little, if anything, to increase the United Nations as an agency dedicated to promoting world peace.

#### *Destroy Unity of Free World*

The most powerful deterrent to world communism is the unity of the free world, headed by the United States. Mainly through the effort's and determination of this country acting by itself or in concert with friendly nations, the advance of communism throughout the world has been slackened. To a great extent, opposition to communism has been possible because of economic, military, and political alliances between free world nations which are fully cognizant of the inherent falsity of communist claims and of the danger which world communism represents to the freedom and liberty of all mankind.

Communists continually strive to drive wedges between non-communist nations by fomenting distrust or dissension among them. Khrushchev's depreciation of West Germany during his recent trip to France illustrates the communist intent to split the West. Khrushchev has tried to arouse the age-old enmity of the French against Germany by creating new distrust and fear of a strong, prosperous West Germany. Communists everywhere have exploited recent anti-semitic incidents in West Germany, claiming that the alleged resurgence of Nazism is a threat to world peace. Meanwhile, the world's most prolonged antisemitism continues in the Soviet Union. Senator Thomas J. Dodd in a scholarly report asked the question: "Did the communists instigate the epidemic (of swastikas) or did they simply exploit it for "cold war" purposes?" (97)

Communists endeavor to persuade uncommitted countries to become neutral or anti-American, if not pro-communist. On his recent Asian tour, Khrushchev boasted of Soviet industrial and economic might, while portraying the United States as a declining power. Moreover, he continually referred to the USSR's devotion to "peace" and its policy of peaceful coexistence, reciting the unilateral reduction of Soviet armed forces, his proposal in the UN for total disarmament, and the Soviet plan for banning nuclear testing. To keep neutral Indonesia and Afghanistan in line, Khrushchev granted \$250,000,000 in credits to the former and reminded the latter of past Soviet credits, adding that more economic aid could be extended by further agreement. (98)

Nations of the free world have, of course, many different values. They are united, however, in their determination to preserve the one overriding value they all enjoy—freedom. This mutual, steadfast determination to preserve freedom is the free world's most potent weapon against additional communist expansion. It is for this reason that communists are devoting such a large portion of their time, energies, and funds to their efforts to disrupt the solidarity of the noncommunist world.

## **Law as a Communist Weapon**

### *Law as an Instrument of Peace*

In their relentless quest for world domination, communists seek the fullest protection of the law as a weapon to aid their cause. In the countries over which they have established control, they use it as an instrument of force. In the countries they are seeking to subvert, they abuse it and use it to shield their subversive activities. It is, therefore, a double-edged weapon which communists wield with ruthless efficiency to undermine the foundation stones of democracy, liberty and freedom.

To comprehend fully the over-all threat which communism presents, it is vitally important to understand the extent to which communists use law as a weapon in their relentless attack upon the free world.

Communists analyze the subject of law and judicial process from the same perspective they analyze all other aspects of human relations. To communists, the law is not rooted in the mind of man per se. On the contrary, it is rooted in the material conditions of life. All judicial and political concepts and practices are viewed as outgrowths of the economic structure of society. To communists, law of its very nature is inseparable from the state, and as the state is an organ of force, law amounts to nothing unless there is force behind it to compel obedience. Therefore, behind the present-day legal structure of communism, there is the fact of the dictatorship of the proletariat, i.e., the ruling CP.

In view of Lenin's statement that "dictatorship is power based upon force and unrestricted by any laws," the inference is clear: Communists regard force as primary and law as secondary. Law is merely the instrument of force. This interpretation of law is in direct contradiction to the legal concepts of Western civilization. (99)

The late Andrei Y. Vyshinsky, the purge expert and one-time prosecutor for the USSR, stated that "law is merely the will of the dominant class, elevated into a statute." There is ample evidence that the Party directs the law both in legislation and in administration. Whatever Party officials want enacted into law is enacted by the state-controlled legislatures; whatever the Party wants the courts to do with criminals is done. (100)

The Soviet Constitution contains one very elastic clause which can be utilized to accomplish anything the Soviet rulers desire under guise of lawful authority. Chapter I, Article 11, provides: "The economic life of the USSR is determined and directed by the State national-economic plan, with the aim of increasing the public wealth, of steadily raising the material and cultural standards of the working people, of consolidating the independence of the USSR and strengthening its defensive capacity." (101)

Thus the Soviet Constitution establishes legitimacy for anything they wish to accomplish under the broad provision "strengthening its defensive capacity."

### *Role of Soviet Courts*

The courts, according to Soviet legal authorities, must follow the CP's directives. Vyshinsky said:

"A court of whatever sort is an organ of the authority of the class dominant in a given state, defending and guarding its interests . . ." (102)

Another Soviet authority has stated:

"In our Soviet State the courts are considered a part of the leading political apparatus and care should be taken, by appropriate measures, that the courts actually are instruments of the policy of the Communist Party and the Soviet Government." (103)

### *Role of Soviet Public Prosecutor*

An integral part of the courts in the USSR is the public prosecutor. According to Lenin, this official has the responsibility of seeing that "not a single decision of a single local authority be divergent from the law." The public prosecutor, established by the Soviet Constitution, is organizationally bound to the courts.

The public prosecutor has the duty of carrying out tasks conferred on him by the CP or by the Soviet Government. This means that the Party, while not exercising penal powers, nevertheless gives instructions to the public prosecutor to execute Party wishes, even to purging Party members. It is the obligation of the prosecutor to advise the court of the policies of the Party and the Government so that the Communist regime may be protected and enhanced. (104)

### *Judges*

In the USSR, all judges are "elected": however, it is obvious that only those judges are permitted to run for office who are subservient to the regime, and who are approved by Communist Party leaders. In other words, the "election" of judges is actually an appointment of judges who will render the "right decisions" for the communist cause.

The Soviet system also provides for the "people's assessor," who enjoys all the rights of a judge, and participates in hearing and deciding cases before the court. The assessor, too, is "elected." One judge and two assessors serve the state in hearing and deciding cases. (105)

### *Soviet Judicial System*

The jury system is called by communists a "bourgeois democratic" feature which perhaps had value after the end of feudalism, but not for a socialist society. Vyshinsky condemned the jury system as the bulwark of that order of social relationships which rests on private capitalist property."

Soviet trials are marked by the objectionable feature that the accused appears in open court following a secret pretrial investigation, during which he is denied the aid of legal counsel. Except for reasons of State, cases are examined in open court after such secret pretrial. This allegedly "guarantees" the legality of trials and supposedly "insures" that the rights of citizens are "respected."

In the Soviet Union when the matters under examination concern military and other state secrets, as well as sex crimes, the trials can be held in closed courts. Since it is possible for the CP or the Government to label almost any criminal offense a crime against the state and one involving state secrets, in practice Soviet citizens can easily be denied the open trials so blandly prescribed by the Soviet Constitution. (106)

#### *Toward a Soviet America*

It is not difficult to speculate as to what type of legal system communists would install in this country should they ever achieve their goal of a communist America. William Z. Foster, chairman emeritus of the CPUSA, visualized such a possibility and described it in his book, "Toward Soviet America:"

"The Soviet court system will be simple, speedy, and direct. The judges, chosen by the corresponding Soviets, will be responsible to them. The Supreme Court, instead of being dictatorial and virtually legislative, as in the United States, will be purely juridical and entirely under the control of the C.E.C. (Central Executive Committee). The civil and criminal codes will be simplified, the aim being to proceed directly and quickly to a correct decision. In the acute stages of revolutionary struggle special courts to fight the counter-revolution will probably be necessary. The pest of lawyers will be abolished. The courts will be class-courts, definitely warring against the class enemies of the toilers . . ." (107)

#### *Use of Courts for Political Purposes*

The complete contempt and disrespect of the communists for the American judicial system has been displayed time and time again since the beginning of the American communist movement. No better propaganda opportunities present themselves than trials involving leaders or members of the CP. Communists regard such trials as public forums from which they can proclaim the communist ideology.

"A Communist must utilize a political trial to help . . . the revolutionary struggle. Our tactics in the public proceedings of the law court are not tactics of defense but of attack. Without clinging to legal formalities, the Communist must use the trial as a means of bringing his indictment against the dominant capitalist regime and courageously voicing the views of the Party." (108)

William L. Patterson, former national secretary of the International Labor Defense (ILD) and later executive secretary of the Civil Rights Congress -- both activities in defense of communists -- once observed:

"The class struggle began on the streets or in the shop is carried into the courtroom . . ."

"A lawyer has to concern himself only with the juridical aspects of the case. He is not asked to engage in the political defense of the accused, but his legal defense of the accused, because of the nature of the cases the ILD is engaged in, becomes at once political . . ."

XXXXXX  
XXXXXX  
XXXXXX

FEDERAL BUREAU OF INVESTIGATION  
 FOIPA  
 DELETED PAGE INFORMATION SHEET

\_\_\_\_ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552 (b)(1) (b)(2) (b)(3)

---



---

 (b)(4) (b)(5) (b)(6) (b)(7)(A) (b)(7)(B) (b)(7)(C) (b)(7)(D) (b)(7)(E) (b)(7)(F) (b)(8) (b)(9)Section 552a (d)(5) (j)(2) (k)(1) (k)(2) (k)(3) (k)(4) (k)(5) (k)(6) (k)(7)

- Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.
- Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

\_\_\_\_ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

\_\_\_\_ Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

\_\_\_\_ Pages were not considered for release as they are duplicative of \_\_\_\_\_

\_\_\_\_ Page(s) withheld for the following reason(s): No Page 40 in file

- The following number is to be used for reference regarding these pages:

77-121928-50

XXXXXXXXXXXXXXXXXXXX

X Deleted Page(s) X

X No Duplication Fee X

X for this page X

XXXXXXXXXXXXXXXXXXXX

XXXXXX  
XXXXXX  
XXXXXX

FBI/DOJ

all defamatory or insulting. (114)

The trial was the most picketed trial in American history. Almost daily, there were communist demonstrations and picket lines in Foley Square in front of the United States Court-house where the trial was held. At times, pickets numbered several thousand. Scores of policemen, mounted and on foot, had to be assigned to control the crowds. (115)

At the 1952 Smith Act trial--also held in New York City--of another group of secondary communist leaders, the CP was disappointed at the failure of the trial to produce as much publicity as it had hoped for. As the trial progressed and the lack of publicity became apparent, the defense strategy changed. Party leaders decided that the trial should be terminated as speedily as possible.

Communists always strive to have the final word at their trials, the occasion of the sentencing of communist defendants is invariably used by them to proclaim their innocence and to dramatize their convictions as "political" or "class war" prisoners.

At the 1949 trial of the communist leaders, the defendants were determined to squeeze the last ounce of propaganda from the sentencing. Two of them, Gilbert Green and Henry Winston, addressed the Court before their sentences. Green declared that he was "guilty of no crime" but was being imprisoned because of his "political beliefs." Winston stated that he stood before the judge "branded as a criminal who committed no crime whatever." (116) When Robert Thompson, another defendant, rose to address the court with a long pre-prepared speech, the judge pointed out that the court had no desire to hear a political speech. The entire text of Thompson's speech was later printed in a communist publication. (117)

#### *Communist Defense Tactics*

The CPUSA, viewing the United States as the "enemy," has devised various methods for evading exposure and prosecution at the hands of this "enemy." The International Labor Defense, the forerunner of all communist legal arms, published a pamphlet some years ago entitled *Under Arrest! How to Defend Yourself in Court! What To Do When Arrested and Questioned!* This document is the basic outline followed by communists over the years. According to this pamphlet, the policeman "is a servant of the boss class" and "is your enemy." Defendants were instructed to give their name but nothing more, not even an address. "Have no faith in fake promises of the cops or the district attorney," was the warning issued. Defendants were urged to demand a jury trial so as to "have much more opportunity to raise class issues." (118)

This pamphlet provides the key to the defiant attitude exhibited by communists in court. The "capitalist courtroom" must be used "as a forum from which the workers on trial expose before their fellow toilers the true nature of the courts--as a tool in the bosses' economic and political oppression." Communists were urged by the pamphlet to quote the Declaration of Independence. Thomas

Jefferson, Abraham Lincoln, and Woodrow Wilson in support of their right to revolution. (119)

Reminiscent of the procedure followed to the letter by the defense in the 1949 Smith Act trial, causing weeks of delay, the pamphlet instructed that the defense "challenge the entire panel of prospective jurors on the ground that it is composed of people whose social and economic interest will prejudice them against . . . the defendant." (120)

#### *Role of Communist Lawyer*

Although very few of the more than 200,000 lawyers in the U. S. are communists, these few communist lawyers have given much aid to the Communist Party. They have given assistance to the Party's organizational apparatus and projects, to its numerous front groups and enterprises, and to the promotion of the communist cause in the judicial, legislative and executive agencies of our Government. More than 100 communist lawyers were identified in sworn public testimony before the House Committee on Un-American Activities in the decade from 1947 through 1957. Since a communist owes his primary loyalty to an international revolutionary conspiracy, the anomaly of a communist lawyer is apparent. A communist lawyer's first allegiance is to the CP itself and in direct conflict with his oath to uphold the Constitution.

A group of Los Angeles lawyers, who had quit the CP in disillusionment in the latter 1940's described their Party experiences. Most of them had been recruited into the CP after other lawyer members had induced them to attend informal "legal" discussion groups where they were gradually exposed to Marxist philosophy. When they actually joined the Party, the new recruits were placed in a special lawyers' group, whose membership was kept secret. There they received intensive indoctrination aimed at guiding their thinking along accepted CP channels. Communist lawyers are not allowed to disagree with Party theory and policies. They either abide by Party dictates or leave the Party.

The behavior of defense counsel in the 1949 New York Smith Act trial was in complete accord with the Party's standard courtroom strategy. Throughout the long trial, a group of defense lawyers indulged in a spectacular display of abusive and disruptive conduct. These lawyers were determined to interrupt the legal proceedings by any means and to introduce communist propaganda at every opening as long as the trial continued.

The CP's position regarding congressional committees investigating subversion has always been to challenge the very existence of such bodies. It has also instructed its members, who are subpoenaed to appear as witnesses before these committees, to refuse to furnish any information relative to communist activities. To insure complete resistance to congressional committees, communist lawyers are often assigned to communists who have been subpoenaed.

In appearances before the HCUA as counsel to uncooperative witnesses, many Communist lawyers have further violated the ethical standards of the bar by a

display of contemptuous and abusive behavior. The HCUA on occasion has found it necessary to have such counsel escorted from its presence in order to permit a hearing to proceed.

In an effort to obtain a picture of some of the special services which can be performed for the CP by members operating from the vantage point of the legal profession, the HCUA reviewed the public record of a number of lawyers who have been identified as Party members in sworn testimony. This record shows that such lawyers have:

- Capitalized on their membership in the legal profession to recruit fellow lawyers into the CP;
- Misapplied their legal training by assisting communists to circumvent the law in order to carry out Party objectives;
- Served in secret communist cells aimed at espionage and influencing United States policy toward communist goals, while holding responsible legal positions in the United States government;
- Carried out important duties as functionaries of the CP itself;
- Acted as legal advisors to, and accepted leadership roles in, communist front organizations built around civil rights and other popular themes and issues;
- Exploited the prestige of their profession in the course of running for public office;
- Devised legal bulwarks for the protection of the Communist Party, its members and organizations under its control.

Thus, although relatively few in number, communist lawyers have been of substantial assistance to the communist cause. While some activities involve the promotion of communist aims in fields far removed from the atmosphere of courts or administrative and congressional hearing rooms, a basic element in all of them has been a deliberate exploitation of the lawyer's special status as a member of the bar. This is well illustrated by the past activities of some members of the National Lawyer's Guild who have lobbied against executive and legislative programs designed to curb the effectiveness of the communist conspiracy in this country. (121) Under the mantle of the legal profession, the communist can operate as an ostensibly respectable and influential member of the community, despite his dedication and subservience to communist doctrine and directive. (122)

#### *Communist Attacks on Constituted Authority*

Communists constantly deride the system of law and order that prevails in this Nation. The founders of our form of Government, for example, have been characterized in the communist press as those who prepared the country for "the capitalist frame-up." (123) The Constitution of the United States has been described as "the handiwork of a family circle of land speculators and bankers who carried its adoption in the face of intense opposition by the threat of withdrawing credit from those who failed to support its ratification." (124)

The Supreme Court, congressional committees, and law enforcement agencies find that they are daily targets for communist vituperation. The Supreme Court, for instance, is depicted as "striking heavy blows at American freedom" when a decision it renders restricts communist activities. (125) However, when the Supreme Court reversed the *Yates* case on June 17, 1957 (126) on the ground that teaching and advocating the abstract doctrine of forcible overthrow of the U. S. Government was not punishable under the Smith Act, a top communist functionary termed it the greatest victory the CPUSA ever won. (127) *The Daily Worker* editorialized on June 19, 1957, as follows: "The curtain is closing on one of our worst periods." And, the *Sunday Worker* on May 11, 1958, condemned legislation to remedy defects in laws protecting national security as disclosed by Supreme Court decisions.

Congressional committees are labeled by communists as "the stooges of the American imperialist interests for whatever 'job' is to be done anywhere in the world in the name of 'saving the world from communism'." (128)

Communist front groups play a major role in efforts to destroy the confidence and respect of the public in constituted authority. The degree to which this phase of communist activity exists in our country today is revealed by the testimony of J. Edgar Hoover earlier this year that the FBI then had under investigation 160 known or suspected communist-infiltrated organizations. (129)

A particularly deadly weapon used by communist front organizations in incursions on constituted authority is the smear attack. One of the most recent attacks of this nature was a major campaign designed to cripple the anti-subversive programs of Congress, abolish the HCUA, and discredit J. Edgar Hoover and the FBI.

The campaign was launched in the Fall of 1957 by a communist front known as the Emergency Civil Liberties Committee (ECLC). Mass meetings throughout the country, a barrage of letters and petitions to members of Congress and public officials, and public officials, and similar agitation and propaganda activities were sponsored and encouraged by the ECLC in an attempt to undermine the security programs and weaken the security agencies of the Federal Government. The goals of the ECLC were:

Destruction of the HCUA;

Extinction of the investigative powers of Congress and the states in the field of subversive activities;

Restriction of important functions of the FBI in its investigation of subversive activities;

Creation of a general climate of opinion against the exposure and punishment of subversion. (130)

The mass mob attack and disruption of the hearings of the HCUA in San Francisco earlier this year reflected the growing brazenness of communists in this country. This mob action was in the pattern of the communist mob action

in Japan insulting the President of the United States and recent similar cast in Italy.

#### *Beachhead of Subversion*

What it would mean to this country if communists were successful in eliminating the FBI operations in this area are revealed. J. Edgar Hoover testified before the House Subcommittee on Appropriations early this year that during the 1959 fiscal year alone 97,438 security matters were received by the FBI for investigation. (131)

Mr. Hoover pointed out that the FBI's "operations over the years have clearly revealed that the Communist Party of the United States is a tightly knit, hard core of conspiratorial Reds committed without question to the international goal of ultimate world domination." Mr. Hoover added that "As long as this Soviet-dominated apparatus exists in the United States, there will remain among us an aggressive force of dedicated fanatics, constantly at work to destroy the American way of life. It is a beachhead of subversion within our Nation." (132)

#### **Meeting of the Communist Menace**

##### *Fountainhead of Freedom*

The massive challenge which the world communist conspiracy hurls at the world today must be met. The massive offensive of subversion directed at this Nation must be exposed and destroyed. Otherwise, freedom will disappear not only in this country but also in the entire world, for the United States stands today as the principal if not the only force capable of preventing the red tide from engulfing the universe.

The fainthearted in our society may question whether or not the job can be done—whether or not we can successfully meet the challenge and turn back the offensive directed at us by world communism.

The scholarly and well documented study prepared by the Foreign Policy Research Institute of the University of Pennsylvania recently issued by the Senate Internal Security Sub-committee makes the following interesting observation:

"The Soviets have assiduously exploited the world's fear of nuclear war to the extent that numbers of people have come to feel, like Bertrand Russell, that it would be preferable to let communism take over the world rather than to resist and risk a nuclear exchange that would mean the end of civilization. This, undoubtedly, is the conclusion that Khrushchev would like to see more generally accepted." (133)

Former President Herbert Hoover gave the answer to such a viewpoint in a speech in February 1960. The fundamental strength of the American people, he said, has sustained us through crisis after crisis in the 184 years this Republic has existed. We can, he said, defeat our enemies, including what he termed the spread of the Karl Marx virus in our society, by sustaining and expanding

the fundamental strength of the American people. But to do this, he admonished, we must take a firm stand against the evils that beset us and reaffirm our devotion and dedication to freedom of men. (134)

Former President Hoover's emphasis on the need to reaffirm our dedication to freedom of men was an extension of the key thought expressed by President Eisenhower in his State of the Union message last January. President Eisenhower declared that "our own Constitutional system, and the ideals which sustain it, have long been viewed as a fountainhead of freedom." (135)

#### *Protect Our Constitutional System*

To maintain this "fountainhead of freedom which our constitutional system represents is the responsibility of every citizen, but it is the special responsibility of the ABA, whose members are sworn to uphold and defend it. We must reinforce the judicial process against communists who abuse this freedom in seeking to destroy it.

The bar must be alert to its particular responsibilities to defend vigilantly our liberties and traditions. The terrible consequences of the success of the communist movement should lead the bar to a new and deep appreciation for the existence of our form of government and the freedom of the individual under law.

Ours is a form of government that acknowledges each individual soul and respects human dignity destined by the very nature of man to be full of creativity, diversity, change, and growth. It is with this realization that such basic individual rights as freedom of speech, of the press, of assembly, and of religion take on new meaning. The American judicial process holds these rights in trust for the use of the American people.

#### *Correct Deficiencies in the Law*

With the knowledge that the communists use every legal loophole to further their conspiratorial efforts in our society, we must dedicate ourselves to eliminating the loopholes that now exist. The Special Committee on Communist Tactics, Strategy and Objectives of the ABA in earlier reports has focused attention on such weaknesses and will continue in this effort until they have been eradicated.

While encouraging response has followed previous recommendations of this committee, there has been no final corrective action by the Congress and these issues have not been pressed to completion. Communists never let up in the constant struggle against us. The American Bar must not let up in its determination to block them at every turn. For this, deeds, not mere words, are required.

Therefore, we reiterate our pleas that the recommended legislative action approved by the House of Delegates in February 1959, be adopted in the following areas:

*Smith Act of 1940*

The word "organize" should be defined to include a continuing process so that the statute of limitations cannot be successfully invoked. The Supreme Court held that the CPUSA was organized in 1945—the year the CPUSA was reconstituted after a year's existence as the Communist Political Association—and hence any indictment after 1948 was invalid under the statute of limitations. Legislation should be promptly enacted to restore the current enforceability of state sedition laws.

This act should be amended to make it a crime to teach and advocate violent overthrow of the United States Government. The Supreme Court held that mere teaching and advocating the overthrow of the Government was not a violation of the Smith Act unless such teaching and advocating incite to action. (136)

The Government should not be forced to delay invoking judicial process until the damage has been done. Americans must be protected from that which goes beyond the discussion stage and tends to incite efforts to overthrow the Government by force.

*Security of Government Employees*

Legislation should be enacted to enable the executive branch of the Government to determine and dismiss, if necessary, those who are security risks in both sensitive and non-sensitive Government positions. (137)

Each branch of the Government should be empowered to dismiss any employee who refuses to answer, before a congressional committee or before duly authorized officers of either the executive or judicial branches of the Government, queries concerning Communist Party, communist front, or other subversive affiliations. (138)

*Aliens*

The executive branch of the Government should be empowered to interrogate aliens awaiting deportation concerning their subversive activities and associations. This should include the power of the executive branch of the Government to deport aliens who are communists at any time after they enter the United States. (139)

The following incident recently came to light which highlights the necessity for corrective action. Irving Potash was deported in 1955 after being convicted under the Smith Act in 1949 and sentenced to a five-year prison term. After his deportation to Poland he reported to Moscow and was sent to Red China and finally returned to Poland. He secretly returned to the United States where he was arrested by the FBI on January 4, 1957. On January 18, 1957 Potash was sentenced to a two-year prison term and fined \$1,000 for illegal entry into the United States and was released on August 26, 1958. The Immigration and Naturalization Service immediately arrested him and tried to deport him again.

Potash is now in New York under supervisory parole, and while under the supervision of the U. S. Government he is serving as National Labor Secretary for the National Committee of the CPUSA. In March 1960 Potash broke his parole by helping to plan a secret meeting of the CPUSA and going to Chicago, Illinois. Again the Immigration Service intervened and despite the fact that Potash had worked with Soviet, Chinese and Polish Communists, despite the fact that he served International Communism, despite the fact he had been deported after his conviction of advocating the overthrow of the Government of the United States by force and violence, the United States Attorney in New York ruled Potash could not be held. (140) He cannot be deported because the Communists will not grant him a visa to return to Poland. Thus by not issuing a visa a Communist satellite can put a capable agent to work while he is under what amounts to government supervision.

#### *Passports*

The executive branch of the Government should be empowered to deny passports to persons knowingly engaged in subversive activities designed or intended to further communism. Clear and unequivocal criteria and standards governing issuance of passports should be established by legislation. (141) It is submitted that membership in the CPUSA is an overt act against the American people and our government should be able to protect itself against their doing harm to the U. S. abroad. As a people we cannot organize against communists unless the state is given some operational powers that will meet the needs of actual survival.

#### *Foreign Agents Registration Act of 1948*

This Act should be made effective by requiring agents of foreign principals, who are outside the United States but who are disseminating their political propaganda within the country, to label their propaganda for what it is. (142)

#### *Communist Lawyers*

The right of the individual States to refuse to admit lawyers and to disbar lawyers who are members of the CP or who refuse to testify concerning their communist activities should be made clear. (143)

#### *Congressional Committees*

The record of the HCUA and the Senate Subcommittee on Internal Security is one of accomplishments and achievements despite the fact they have been the targets of inspired propaganda attacks designed to curb their effectiveness. Continuation of these committees is essential to the enactment of sound security legislation. (144)

#### *Need for Education and Leadership*

Confining ourselves to a role of action as legal antagonists of communism is

not enough. It is also the responsibility of each of us to lead a concerted campaign dedicated to educating everyone in the Nation to the threat which communism presents. At the same time, it is our duty to inculcate in everyone a new belief in and a new respect for the American way of life. Vice President Richard M. Nixon asserted last year that "just as Mr. Khrushchev expresses his belief that our grandchildren will live under Communism, we should just as vigorously express our conviction that freedom and not communism is the wave of the future." (145)

J. Edgar Hoover has insisted that Americans can defeat communist ideology and—at the same time—reinforce the structure of our own democracy by the combined process of exposure and education:

"Every exposure of communism's false premises, inherent contradictions, deceitful tactics, and empty promises helps to shatter its ideological appeal and to fortify against its psychological pressures. But, in this struggle for men's minds, exposure is not enough. Exposure must be complemented by a long-range educational program with a dual purpose. This program must encompass, not only a penetrating study of communism, but also a thorough grounding in the basic principles of our individual freedom under law. This educational program must be designed to train people to think and to distinguish between truth and error." (146)

Mr. Hoover has given seven basic instructions to those who lead in the fight against communism:

- Alert yourself—learn the true nature and tactics of communism.
- Make civic programs for social improvement your business.
- Exercise your right to vote; elect representatives of integrity.
- Respect human dignity—communism and individual rights cannot coexist.
- Inform yourself; know your country—its history, traditions and heritage.
- Combat public apathy toward communism—indifference can be fatal when national survival is at stake.

Attack bigotry and prejudice wherever they appear; justice for all is the bulwark of democracy. (147)

Former President Harry Truman in his recent book "Mr. Citizen" makes this sage observation:

"Time is on our side if we know what we are doing and where we are going. Time is always on the side of free people. . . . We believe in justice and freedom and a good life for everyone and no interference in the internal affairs of anyone. We do not seek to impose our way of life or system of government on any nation." (148)

With these guide lines, the ABA can do its part in combatting communism through a program of exposure and education by arousing lawyers and the general public to help carry on the task. It is shocking to note the number of Americans who condemn communism, yet have not the vaguest notion of the

evil which the word encompasses. In this world-wide conflict, free people everywhere are involved. The law cannot compel devotion or patriotism. The call must go out to every corner of the land to awaken and alert every American to the danger. Together we must develop a positive, energetic course of action, based on a knowledge of communism's illusion and a revitalization of our inherently superior strength, and to bring about widespread understanding of the superiority of liberty under law as provided by our Constitution in contrast to life under the tyranny of Red Fascism.

The tremendous success of the recently inaugurated Law Day, USA, is just a sample of what can be done. Law Day, USA, has helped immensely to bring home to Americans the contrast between individual freedom under law and political oppression under Communism. Thousands of programs have been held each May 1 in schools, courtrooms, churches, and meeting halls throughout America. Hundreds of organizations have cooperated with the ABA and the American Heritage Foundation. Proclamations have been issued by mayors, governors, and the President of the United States. The broadest impact has come from the local observances where lawyers, judges, teachers and other citizens from all walks of life have been reminded of their reliance upon law in daily affairs and in their hopes for world peace. These activities are a striking contrast to the May Day celebrations in Communist countries. (149)

The ABA can urge local and state bar associations to develop lecture programs. Especially trained practicing lawyers could speak before high school students, business and fraternal organizations, and church groups on the theme of the advantages of democracy over communism, stressing the duty of each citizen to know the full facts about communism and to interest himself actively in public affairs. It requires a special and extra effort on the part of each of us to join in such a campaign. Members of the ABA should be the greatest foes of communism. Lawyers are certainly "firmly grounded in and inspired by the principals and traditions of our nation." The legal profession serves as the ultimate guardian of the Bill of Rights and the protector of our freedom. Never before has the responsibility of the bar been so great to assume leadership in the fight against communism to preserve the American way of life. It is our call to duty.

It is the deep conviction of the members of this committee that the American Bar Association could render a useful and lasting service if it took leadership in furthering public education on the superiority of our American way of life under law over the tyranny of the Soviet Dictatorship and its world wide alliance with communist parties in various countries of the world.

To this end the committee urges that the American Bar Association call upon state and local bar associations to initiate programs in which qualified members of the bar address school assemblies and special convocations as well as civic organizations for the purpose of contrasting life under our Constitutional Republic with life under communist dictatorship, and to explain the nature, objectives,

and tactics of communism and its dangers to our rights and freedoms and to the government of the United States.

To start this program the committee urges that the President of the American Bar Association appoint a committee of eminent and qualified members of the Association to implement his program and to report to the House of Delegates at the next midyear meeting and at each succeeding annual meeting concerning its progress.

Your Special Committee on Communist Tactics, Strategy and Objectives suggests that if the Special Committee is authorized to be appointed by the President of the American Bar Association, it consider the following suggestion for recommended procedure: (1) The procurement of bar association members with a sufficient background of study of the nature, meaning and purposes of international communism in relation to American Constitutional Government to enable them to speak interestingly, challengingly and informatively; (2) Request each secondary school and college to arrange to have a designated member of the bar appear at an assembly or special convocation of its entire student body upon a convenient occasion and date, in this and each succeeding school year, to address the convocation on the subject of COMMUNISM, WHAT IT IS AND WHAT IT MEANS; and contrast it with liberty under law provided by our Constitution; and (3) Before each annual meeting of the American Bar Association to make a written report, which report shall include, but not necessarily limited to, a statement of the names of all speakers and a list of the schools and colleges at which they have spoken.

The committee cannot close this report without a word of tribute to Julius Applebaum, a member of this committee for many years, who was called to his reward last May. Loyal, capable, tireless and dedicated, Julius Applebaum was first an American and then an advocate and defender of the profession. Since he contributed materially to the outline and format of this report, this committee therefore unanimously agreed that his name should be appended thereto.

*Respectfully submitted,*

HENRY J. TE PASKE,

*Chairman*

PETER CAMPBELL BROWN,

*Vice-Chairman*

JULIUS APPLEBAUM (Deceased)

JAMES S. CREMINS

RAY MURPHY

LOUIS B. NICHOLS

C. BREWSTER RHOADS

KENDRICK SMITH

JACKSON A. WRIGHT

LOUIS C. WYMAN

XXXXXX  
XXXXXX  
XXXXXX

FEDERAL BUREAU OF INVESTIGATION  
FOIPA  
DELETED PAGE INFORMATION SHEET

\_\_\_\_ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552 (b)(1) (b)(2) (b)(3)

---

---

---

 (b)(4) (b)(5) (b)(6) (b)(7)(A) (b)(7)(B) (b)(7)(C) (b)(7)(D) (b)(7)(E) (b)(7)(F) (b)(8) (b)(9)Section 552a (d)(5) (j)(2) (k)(1) (k)(2) (k)(3) (k)(4) (k)(5) (k)(6) (k)(7)

- Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.
- Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

\_\_\_\_ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

\_\_\_\_ Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

\_\_\_\_ Pages were not considered for release as they are duplicative of \_\_\_\_\_

\_\_\_\_ Page(s) withheld for the following reason(s): No Page 52 in file

- The following number is to be used for reference regarding these pages:

77-121928-50

XXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X for this page X  
XXXXXXXXXXXXXXXXXXXX

XXXXXX  
XXXXXX  
XXXXXX

- 1959), p. 114.
31. *Ibid.*, p. 33 (*Tass*, April 2, 1958).
32. *Dennis v. United States*, 341 U.S. 491.
33. *Senate Internal Security Subcommittee Report*, Khrushchev Strategy and its meaning for America, 1960, p. 27 and 28, *World Marxist Review*, Vol. 2, No. 12, December 1959, p. 43.
34. Statement by J. Edgar Hoover, Director, FBI, *Concerning the 17th National Convention, Communist Party, U.S.A., December 10-13, 1959*, to the Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws of the Committee of the Judiciary, U.S. Senate, 86th Congress, 1st Session (Washington: Government Printing Office, 1960), p. 1, 10.
35. *Collected Works* of V. I. Lenin (New York: International Publishers, 1942), Vol. XIX, p. 187.
36. *Ibid* (1929), Vol. XX (Book I), p. 114.
37. *Political Affairs*, February, 1960, p. 62.
38. Lenin, *Selected Works*, op. cit., Vol. V, p. 237.
39. Note 31, *Ibid.*, p. 55.
40. Lenin, *Selected Works*, 1943, p. 313.
41. *Current Digest of the Soviet Press*, January 13, 1960, p. 4 (Khrushchev talk to Power Plant Builders' Conference, November 28, 1959).
42. Note 31, *Ibid.*, p. 25.
43. *The Washington Post and Times Herald*, April 22, 1958, p. A 5.
44. *Soviet World Outlook*, op. cit., p. 54.
45. *Ibid.*, p. 55.
46. *Program of the Communist International* (New York: Workers Library Publishers, 2d edition, 1933), p. 37.
47. Andrei Y. Vyshinsky, *The Law of the Soviet State* (New York: The Macmillan Company, 1948), p. 617.
48. Lenin, *Selected Works*, Vol. VII, 1943, p. 357.
49. *The New York Times*, October 1, 1959.
50. Short History CPSU, 1945; p. 168-169.
51. Boris M. Shaposhnikov, "Brain of the Army," 1928, Vol. III, p. 251.
52. Lenin, *Collected Works*, 1942, Vol. XIX, p. 366.
53. Stalin, *Works*, op. cit., Vol. 5, p. 169.
54. *Ibid.*, pp. 166-167.
55. Lenin, *Selected Works*, op. cit., Vol. X, p. 202.
56. J. Edgar Hoover, Testimony before the House Sub-committee on Appropriations, February 8, 1960, p. 41-42.
57. *The 1957 World Almanac and Book of Facts* (New York: New York World-Telegram and The Sun, 1957), pp. 186, 203, 403.
58. *The Communist Conspiracy, Strategy and Tactics of World Communism*.

- Committee on Un-American Activities, House of Representatives, 84th Congress, 2d Session, House Report No. 2240 (Washington: Government Printing Office), May 29, 1956, Part I, Section A, p. xi.
59. "William Bent: Reports on the Voice of the Kremlin," 1956 *Britannica Book of the Year* (Encyclopædia Britannica, Inc., 1956), engraved feature article.
  60. Lenin, *Selected Works*, op. cit., Vol. II, p. 101.
  61. Joseph Stalin, *Problems of Leninism* (New York: International Publishers, 1934), p. 629.
  62. *Political Affairs*, September 1946, p. 809.
  63. *Facts on File*, 1959, p. 324.
  64. *Facts on File*, 1950, p. 53.
  65. Memorandum dated May 19, 1960, addressed "To all State Organizations," "To all National Committee Members"—by Gus Hall.
  66. Lenin, *Selected Works*, op. cit., Vol. X, pp. 169-170.
  67. V. J. Lenin, "Left-Wing" Communism, *An Infantile Disorder* (New York: International Publishers, 1940), p. 38.
  68. Georgi Dimitrov, *The United Front* (New York: International Publishers, 1938), p. 52.
  69. Statement by J. Edgar Hoover *Concerning the 17th National Convention, Communist Party, U.S.A.*, op. cit., p. 5.
  70. Lenin, *Selected Works*, op. cit., Vol. IV, p. 6.
  71. Stalin, *Essays of Leninism*, op. cit., pp. 29-32.
  72. *The Communist*, May 1931, p. 413.
  73. *Expose of Soviet Espionage*, May 1960. FBI Report to Attorney General issued by Senate Internal Security Committee, June 1960.
  74. *New York Mirror*, June 8, 1960.
  75. *1960 Appropriation*, Testimony of John Edgar Hoover, Director, FBI, Before the House Sub-committee on Appropriations on February 5, 1959, p. 30.
  76. "Citizenship—A Call to Duty," Address by J. Edgar Hoover, Director, FBI, at the Biennial Convention of Junior Order United American Mechanics, Morris Harvey College, Charleston, West Virginia, June 16, 1959.
  77. *Ibid.*
  78. *Masters of Deceit*, op. cit., p. 302.
  79. *Ibid.*, pp. 303-305, and Fendall Yerxa and Ogden R. Reid. *The Threat of Red Sabotage* (New York Herald Tribune, Inc., 1950), pp. 3-10, 28-29.
  80. *Ibid.*
  81. *Masters of Deceit*, op. cit., pp. 303-305.
  82. *Soviet World Outlook*, op. cit., p. 172.
  83. *The Twilight of World Capitalism*, op. cit., p. 17.
  84. Lenin, *Selected Works*, op. cit., Vol. VII, p. 174.

85. *The Communist Conspiracy*, op. cit., Part I, Section C, pp. 41-42.
86. *Patterns of Communist Espionage*, Report by the Committee on Un-American Activities, House of Representatives (Washington: Government Printing Office, 1958), pp. 5-6.
87. *The New Leader*, April 4, 1960, p. 8.
88. *Ibid.*, April 18, 1960, pp. 3-4.
89. *The Evening Star* (Washington, D. C.), October 9, 1959, p. A-12.
90. *The New York Times*, October 9, 1959, p. C-14.
91. Lenin, *Selected Works*, op. cit., Vol. X, p. 112.
92. *The New York Times*, February 25, 1960, p. C-10.  
Government Printing Office, 1959), p. 51.
93. *Great Plan of the Soviet Union*, Resolution of the 21st Congress of the Communist Party of the Soviet Union (London: May, 1959) p. 61.
94. *The Working Woman*, December, 1934, p. 9.
95. *Daily Worker*, March 25, 1927, p. 4.
96. *Primer on Communism* (New York: Anti-Defamation League of B'nai B'rith, 1956), pp. 2-43. *Soviet Political Agreements and Results*, Staff Study for the Sub-committee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Committee on the Judiciary, U. S. Senate, 86th Congress, 1st Session (Washington: Government Printing Office, 1959), p. 51.
97. *U. S. News and World Reports*, March 28, 1960.  
~~see section one 1960, pp. 17, 1671.~~
98. Lenin, *Selected Works*, op. cit., Vol. VII, p. 123.
99. Vyshinsky, op. cit., p. 13.
100. USSR No. 12 (27), page 23 (1959), "Constitution—Fundamental Law of the Union of Soviet Socialist Republics."
102. *Ibid.*, p. 500.
103. Professor Polyansky, "Party Directives and Penal Justice," *Izvestiia Moskovskovo Universiteta (Moscow University Bulletin)*, Vol. XI, 1950, quoted in *Bulletin of the International Commission of Jurists*, No. 3, November, 1955, p. 34.
104. Vyshinsky, op. cit., pp. 497, 498.
105. *Ibid.*, pp. 506, 510.
106. *Ibid.*, pp. 507, 516-517, 519.
107. William Z. Foster, *Toward Soviet America* (New York: International Publishers, 1932), p. 273.
108. Johannes Buchner, *The Agent Provocateur in the Labour Movement* (New York: Workers Library Publishers, N.D.), p. 52.
109. *The Communist Party of the United States of America, What It is, How It Works, A Handbook for Americans*, Sub-committee To Investigate the Administration of the Internal Security Act and Other Internal Security

- Laws of the Committee on the Judiciary, U. S. Senate, 81st Congress, 2d Session (Washington: Government Printing Office, 1955), p. 89.
110. Benjamin Gitlow, *I Confess* (New York: E. P. Dutton & Co., Inc., 1940), pp. 136-146, 151-152.
  111. *Life*, October 24, 1949, p. 34.
  112. *Political Affairs*, September 1949, p. 25.
  113. *The New York Times*, October 18, 1949, p. 1.
  114. *Life*, October 24, 1949, p. 34.
  115. *Ibid.*
  116. *Daily Worker*, March 27, 1956, p. 8.
  117. *Political Affairs*, January 1954, p. 7.
  118. *The Communist Party of the United States of America, What It Is, How It Works*, *op. cit.*, p. 88.
  119. *Ibid.*, pp. 88-89.
  120. *Ibid.*, p. 89.
  121. *Communist Legal Subversion, The Role of the Communists' Lawyer*, Report by the Committee on Un-American Activities, House of Representatives, House Report No. 41, 86th Congress, 1st Session, 1959, pp. 16, 17.
  122. *Ibid.*, pp. 2-3, 4, 5, 7-8, 9, 17-18.
  123. John Reed, "Pocray for the Constitution?" *The Voice of Labor*, Vol. I, No. 3, Joint Council of the Shop Committees, September 15, 1919, p. 5.
  124. *The Communist*, December 20, 1919, p. 4.
  125. *The Worker*, July 5, 1959, p. 7.
  126. *Yates v. U.S.*, 351 U.S. 293.
  127. House Sub-committee on Appropriations on the Department of Justice, January 16, 1957, p. 173.
  128. *The Worker*, August 9, 1959, p. 10.
  129. '61 Appropriation, Testimony of John Edgar Hoover Before the House Sub-committee on Appropriations, February 8, 1960, p. 43.
  130. "Operation Abolition," The Campaign Against the House Committee on Un-American Activities, The Federal Bureau of Investigation, the Government Security Program by the Emergency Civil Liberties Committee and Its Affiliates. Prepared and released by Committee on Un-American Activities (Washington: Government Printing Office), November 8, 1957, pp. 1-2.
  131. '61 Appropriation, *op. cit.*, p. 40.
  132. *Ibid.*
  133. *Khrushchev Strategy* and its meaning for America, Senate Internal Security Sub-committee 1960, p. 20.
  134. *Vital Speeches*, March 15, 1960, p. 325.
  135. *Ibid.*, February 1, 1960, p. 231.

136. *Yates v. U. S.*, 354 U. S. 298.  
See resolution IV approved House of Delegates February 1959 of ABA Special Committee Communist Tactics Strategy & Objectives Report.
137. Note 136 and Joint Report with Committee on Individual Rights and Affected by National Security, Approved by House of Delegates, February, 1960.
138. Note 136 Resolution IV C.
139. Note 136 Resolution IV D.
140. *N. Y. Mirror*, June 3, 1960, p. 24.
141. Joint Report of Committee on Individual Rights as affected by National Security, and Committee on Communist Tactics, Strategy and Objectives, approved by House of Delegates, February 1960.
142. *Ibid.* Note 136. Resolution IV E.
143. *Ibid.*, 136.
144. *Ibid.*, 136.
145. *Vital Speeches*, October 15, 1959, p. 18.
146. J. Edgar Hoover, "Communist Illusion and Democratic Reality," December, 1959.
147. "Citizenship—A Call to Duty," *op. cit.*
148. Harry S. Truman, *Mr. Citizen*, pp. 307-308.
149. *American Ec News*, April 15, 1960, p. 1.

# BEST COPY AVAILABLE

## Written Plans As to Communism

Mr. Lewis V. Powell Jr., president of the Richmond City School Board, has made specific suggestions concerning the Virginia Commission on Public Education concerning the need for offering more comprehensive instruction in our public schools with respect to the threat of communism, and the precise nature of this international conspiracy.

His suggestions follow:

(a) That there be added to the curriculum of secondary schools a course devoted specifically to the study in depth of the history, philosophy, objectives and techniques of international Communism;

(b) That such courses should meet high academic standards of accuracy, thoroughness and scholarship;

(c) That appropriate in-service training be provided to assure that qualified teachers are available to conduct such courses;

(d) That in the training and certification of new teachers, due recognition should be accorded the need for teachers highly qualified in this respect;

(e) That the publishers of textbooks and materials for secondary schools should be encouraged to prepare expeditiously the requisite materials for the training of teachers and for the conducting of such courses in our schools.

Mr. Powell pointed out that the Richmond public schools are making a start toward the above-mentioned list of objectives next month. A committee of teachers is now working on an outline which will be included, on a pilot plan basis, in courses on government. His hope is that this will lead to permanent courses which deal more thoroughly with the subject.

The District of Columbia school system recently instituted a course on Communism which begins in the ninth grade. The American Council on Education is arranging for a conference this

month on this matter of teaching the grim facts as to Communism. Representatives of the Association will discuss the problem with leading educators.

Important steps in the direction sought by Mr. Powell have been taken by the State Board of Education. It appointed a committee to develop a course to teach the fundamentals of our free system, and to contrast with Communism and other totalitarian systems. The high school course in government incorporated these ideas for the current session.

A committee of history teachers is working on a similar outline for high school history courses, which is expected to be instituted next September. In addition, study is being given to the possibility of introducing three principal American institutions into pre-high school courses in civics and U. S. history and geography. The institutes for teachers held last year, in preparation for courses on the fundamentals of American institutions, will be repeated this year, and will be longer.

The special courses to be offered in the public schools will be passed upon by representatives of the College of William and Mary, the Virginia State Bar Association and the Virginia Commission on Constitutional Government, in consultation with the State Department of Education and special committees of teachers, division superintendents and business leaders.

All this is very much to the good. Our state educational authorities are moving in the direction sought by Mr. Powell, and while they may never quite go all the way with him, the importance of teaching the truth about Communism has been recognized.

This is the second of three inquiries. For third add "Communist."

RICHMOND TIMES-DISPATCH  
Richmond, Virginia

Date: JAN 3 - 1961

Editor: VIRGILUS DABNEY

Author:

Re:

BUFILE:

RH FILE:

File in  
Two

EXCLOSURE

76-17367-1461  
77-121928-50

# BEST COPY AVAILABLE

# Understanding Of Red Aims Urged

The single greatest need in Virginia Congress of Parents combatting communism is for and Teachers. genuine understanding of it, Lewis F. Powell Jr., of Virginia Parent-Teacher Association members here yesterday.

Powell, a member of the State Board of Education and a former chairman of Richmond's School Board, said: "There, there, is an area where every citizen can do something."

He urged PTA and other organizations to "educate both children and adults about communism, for in the long view of our struggle with this tyranny, sound education of our people may well be the single most important prerequisite to ultimate victory."

Powell led in successful efforts to offer study of communism in Richmond public schools elsewhere in the state said.

"The subject of communism like any other subject, should be taught tactfully, thoroughly, one at a time, sessions of the 57th annual convention of the Anti-Communist Education

(Indicate page, name of newspaper, city and state.)

5

Date: 10-18-62

Edition:

Author:

Editor:

**EDDABEEY**

Title: VICTORY IN EDUCATION  
TRUST (AVI), ST. LOUIS

Character: COMMITTEE ON COMMUNIST

TACTICS, STRATEGY

or POLITICAL OBJECTIVES

Classification:

Submitting Office: RICHMOND

Sept 13 1962 - 1783

ENCLOSURE

(2)

ENCLOSURE

77-121928-50

UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. Felt

DATE: 10/28/71

FROM : T. E. Bishop

SUBJECT: INVESTIGATION OF NOMINEES

LEWIS F. POWELL, JR. AND

[REDACTED] b6 b7c  
SPECIAL INQUIRY INVESTIGATION

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

The above-captioned individuals are presently under investigation by the Bureau in connection with their nomination by the President for the position of Justices of the Supreme Court. On the afternoon of 10/28/71, [REDACTED] a reporter for the "Washington Post," contacted Bishop. He stated he wished to ask Bishop some questions concerning the investigation which the Bureau may be conducting on the above-named individuals.

He stated that the "Washington Post" has been advised by a number of people who have been contacted by FBI Agents, that the FBI is presently conducting an investigation of the above-named appointees. He advised that a Mr. [REDACTED] has allegedly been contacted by an Agent named [REDACTED] phonetic and, after the conclusion of the interview, the Agent asked [REDACTED] if he intended to testify in opposition to the nomination of either of the above. [REDACTED] also stated that a professor at Harvard has indicated that he, too, was contacted by an FBI Agent. The professor had previously conducted a study of an earlier nominee to the Supreme Court who had been rejected. The Agent allegedly asked this professor if the professor intended to conduct a similar study of the two current nominees and whether he intended to appear in opposition to them.

[REDACTED] advised that both of the people who had contacted the "Post" indicated that they felt the questions on the part of the FBI Agents were intended to "repress any possible dissent" that they might have to the nominees.

[REDACTED] wished to know if the FBI was conducting an investigation, and what our policy is with regard to asking questions of persons contacted which are designed to elicit information as to whether or not they intend to appear in opposition to the nomination. 77-121928-51

- b6/b7C
- 1 - Mr. Cleveland
  - 1 - Mr. Bishop
  - 1 - Mr. [REDACTED]

TEE:jo

6 DECEMBER 1971

NOT RECORDED  
(CONTINUED - OVER)

46 DEC 9 1971

Bishop to Mr. Felt memo (continued)

Re: INVESTIGATION OF NOMINEES LEWIS F. POWELL, JR.  
AND [REDACTED]

b6/b7C

b6/b7C [REDACTED] was advised that the FBI would have absolutely no comment to make whatsoever concerning this matter.

RECOMMENDATION

None. For information.

Properly handled -  
JEB

ADDENDUM - SPECIAL INVESTIGATIVE DIVISION - WVC:LS - 10/28/71

During the interview of [REDACTED] he volunteered he, in the past, had testified in Washington but he did not anticipate testifying concerning the current nominees. This was volunteered by [REDACTED] and was not solicited by direct or indirect question on the part of the interviewing Agent. He added that he did not know either Powell or [REDACTED] and was not conducting any study into their background.

b6  
b7C

Professor [REDACTED] of Harvard University was interviewed by an Agent of the Boston Office at which time he advised he has not made nor is he making any study of either of the nominees. He did advise that he has been reading background information regarding them but he does not consider this to be a study in any manner. [REDACTED] was not asked any questions from which it could be inferred either directly or indirectly as to whether or not he intended to oppose the appointment of the nominees.

b6  
b7C

Dand memo  
to C.G.  
J

4  
Part 2 WVC  
J

UNITED STATES GOVERNMENT

# Memorandum BEST COPY AVAILABLE

TO : Mr. Rosen *RS*

DATE: 10/29/71

FROM : W. V. Cleveland

SUBJECT: LEWIS E. POWELL, JR.

SUPREME COURT NOMINEES

b6/b7C

b6  
b7C

b6/b7C

By memorandum 10/28/71, Mr. Bishop to Mr. Felt (copy attached), it was recorded that a writer for "The Washington Post" made inquiry as to whether during our investigation we contacted two professors and, in part, inquired whether they intended to appear and testify in opposition to Powell or [redacted]. The Special Investigative Division noted no such questions were posed by our Agents. The Director noted, "Send memo to A. G."

An article in this morning's "Washington Post" (copy attached) set forth the above allegation and included reference to other individuals interviewed indicating we inquired of the latter, too, whether they planned to fight the confirmations. The Director noted, "Why do we ask if the person plans to fight the confirmation."

In response to the Director's second notation, it has been established that none of the Agents who interviewed the persons mentioned in "The Washington Post" article did pose any such questions as suggested in the news article.

ACTION:

This is submitted in response to the Director's inquiries.

ENCLOSURE

There is attached a suggested memorandum to the Attorney General apprising him of this situation.

Enclosures *part 10-29-71* ✓

- 1 - Mr. Felt
- 1 - Mr. Rosen
- 1 - Mr. Mohr
- 1 - Mr. Bishop

77-121928-52  
NOT RECORDED

46 DEC 9 1971

- 1 - Administrative Review Unit
- 1 - Crime Records Division
- 1 - Mr. Cleveland
- 1 - Mr. Martin
- 1 - Mr. [redacted]

JAR: bsh  
(9)

CODES 6/1971

BEST COPY AVAILABLE

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller E. S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Leavelle \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

## **FBI Queries Possible Opponents Of 2 Supreme Court Nominees**

By John P. MacKenzie  
Washington Post Staff Writer

The FBI has carried its investigation of President Nixon's two Supreme Court nominees into the unfamiliar territory of the civil rights and civil liberties workers who uncovered damaging evidence against previous Nixon choices for the bench.

Agents in at least five cities have met with a mixed but mostly chilly reception after asking potential opponents of William H. Rehnquist and Lewis F. Powell Jr. whether they had any information and whether they planned to fight the confirmations.

Reaction to the FBI inquiries ranged from surprise at  
the bureau's sudden interest |  
to outrage that the interest ex-|  
tended beyond data-gathering |  
~~to the point of public consider-~~  
Nixon administration.

Professor Gary Orfield of Princeton, who testified against confirmation of Clement F. Haynsworth Jr. and G. Harrold Carswell, said he was asked whether he expected to testify at Senate hearings opening on Wednesday.

opening on Wednesday.

Stanford law professor Anthony Amsterdam, who publicly opposed the possible nomination of Judge Mildred Lillie, was asked whether he would give his views on the court nominees either to the Senate or the American Bar

Association, which is conducting its own investigation. Both men refused to commit themselves on the subject.

Among those who said they were questioned by the FBI was Richard T. Seymour, a lawyer with the Washington Research Project Action Council, a civil rights organization.

Seymour, whose investigation of Carswell produced evidence that he had helped convert a public golf course to a private club to avoid admitting Negroes, was called first at his Washington office. On that call the FBI learned that Seymour had already left for Phoenix, Ariz., where Rehnquist practiced law before he-

coming an assistant attorney general in 1969.

Reached at a Phoenix motel yesterday, Seymour told The Washington Post that an FBI agent had contacted him by telephone on Wednesday.

Seymour said the agent expressed some confusion as to why he was supposed to contact him but that it concerned Rehquist. The agent asked about Seymour's background, his purpose and whether he had developed any new information.

The young lawyer told the agent that he had turned up "nothing worth talking about yet." Then, said Seymour, I asked him if he had any information. He said he couldn't disclose it without permission from higher-ups. I said we operated under the same system."

Seymour said the brief conversation was "very friendly"—there was no attempt to scare me." Other individuals questioned expressed the same view.

Marian Wright Edelman, Seymour's superior at the Washington Research Project Action Council, said she received a call Wednesday in Massachusetts from the FBI's Washington office. The agent asked her to talk with a man from the FBI's Boston office, said Mrs. Edelman, who divides her time between Washington and Cambridge, Mass.

Mrs. Edelman, said she told the FBI that she had nothing to contribute as of now about either Rehnquist or Powell, but she would call the bureau if anything developed.

'From the agents' questions

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

Why do we  
ask if the powers  
play a light the  
conflagration?

The Washington Post Times Herald A-1  
The Washington Daily News \_\_\_\_\_  
The Evening Star (Washington) \_\_\_\_\_  
The Sunday Star (Washington) \_\_\_\_\_  
Daily News (New York) \_\_\_\_\_  
Sunday News (New York) \_\_\_\_\_  
New York Post \_\_\_\_\_  
The New York Times \_\_\_\_\_  
The Daily World \_\_\_\_\_  
The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

Date Oct 29 1971

**ENCLOSURE**

COPY MADE FOR MR. TOLSON

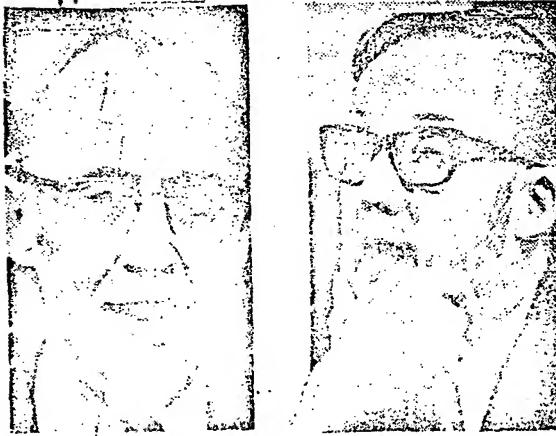
Mrs. Edelman said she had concluded "they clearly never heard of any of us."

The FBI took the brunt of criticism last year for failing to discover derogatory information on Carswell before critics did. Many in the bureau and elsewhere in government felt that the criticism was not entirely deserved because of the short notice and secrecy restrictions under which field agents were forced to operate.

Harvard law professor Lawrence H. Tribe, another private attorney consulted by the FBI, said he has had three FBI inquiries since Oct. 18, when The Post published his study of the recent judicial record of Judge Lillie, then a top name on the administration's list of potential nominees.

Tribe said the agent who called first said he was not conducting a formal check on Judge Lillie but wanted to be ready in case Washington asked for one. Asked the source of his interest in the nominate and what his professional opinion was, Tribe said he replied that he was acting as a scholar and former law clerk concerned about the Supreme Court and that he had a low opinion of the California judge.

Wednesday of this week Tribe received a personal visit and a telephone call from another agent, this time about Rehnquist and Powell. The FBI, Tribe said, wanted to know if he was conducting a comparable study of the two nominees. Tribe said he was annoyed at the question and refused to answer it.



LEWIS F. POWELL JR. WILLIAM H. REHNQUIST  
... Nixon's choices to fill Supreme Court vacancies

November 19, 1971

LEWIS FRANKLIN POWELL, JR.  
DEPARTMENTAL APPLICANT  
JUSTICE  
SUPREME COURT OF THE UNITED STATES

On November 14, 1971, a Western Union telegram, addressed to the FBI, was received at Washington, D. C. This telegram disclosed the following:

"In connection with the investigative responsibility of the Bureau regarding the fitness of Mr. Lewis F. Powell, Jr., it will be demonstrated that Mr. Powell is willing to put his hand on the good book to answer questions in the special interest of the American Bar Association yet he will refuse to answer those same questions on a lie detector test this lack of integrity on the part of Mr. Powell will result in his never being an asset to the Supreme Court."

The name contained on the wire was [REDACTED] b6/b7C and the wire was transmitted from St. Louis, Missouri.

In connection with trying to identify the sender of the wire, the following investigation was conducted:

A review of the City Directory of St. Louis, Missouri, contained no listing for [REDACTED]. A review of the current St. Louis, Missouri, telephone directory and the 1960 and 1970 St. Louis County, Missouri, directory lists a [REDACTED] at [REDACTED] Missouri, a suburb of St. Louis. The directory indicated this [REDACTED] is retired. b6 b7C

The St. Louis County, Missouri, directories for the years 1961 and 1962 lists the same [REDACTED] at the same address as a free lance real estate salesman, and the same directories for the years 1963 through 1968 lists him at the same address as a salesman. These directories also list a Mrs. [REDACTED] at the same address. 11/19/71/53

OFL:bsh  
(4) NOV 19 1971

one cc Deputy A.G. NCR RECORDED

3 DEC 8 1971

hand delivered 11/19/71

Tolson \_\_\_\_\_  
Feit \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Gasper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Doherty \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Sovars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

DEC 10 1971

MAIL ROOM  TELETYPE UNIT

RETURN TO MR. LOWIE, ROOM 126.

Lewis Franklin Powell, Jr.

b6/b7c

In view of the limited information in the telegram it is not possible to determine if the [redacted] Missouri, is identical with the sender of the wire.

b6/b7c

[redacted] St. Louis, Missouri, as of December 19, 1953, was indicated to be a subscriber to the "Yugoslav Review," the official publication of the Yugoslav Information Center, 815 Fifth Avenue, New York, New York. The Yugoslav Information Center is registered with the Department of Justice, Washington, D. C., as a foreign agent.

October 26, 1971

CONGRESSIONAL RECORD -- SENATE

S 16825

BRIGHT. Mr. President, will you yield? BYRD of West Virginia, I yield. A moment ago, the leader from BRIGHT requested that the Senate take up the Okinawa Treaty at 10 a.m. tomorrow. I am understanding that the administration has started hearings with the administration on the Okinawa Treaty in which the administration and the Senate are very much interested. My leader does not compelled to be there at the beginning. This has been set but, on the time.

This afternoon whether some other time for a little later could be set. It would be very difficult for me not to be at the hearing made for the hearings on the Okinawa Treaty with the Secretary of State. BYRD of West Virginia, Is it the intention of the leaders who, intention to begin the hearings any Senator?

BYRD. Ten o'clock. They so that is set for 2 or 3 weeks, and it is a great start of importance to the amendment. I was not thinking of that.

Thinking of the debate, when the Mr. Pres leader asked that the Senate Senator first at 10 a.m. I hope very much that also am not done, because I want to be to his motion anything is offered.

BYRD of West Virginia. Could the be here by 10:45? The reason we question is that an order has just watered under which the Senator about Oklahoma (Mr. HARRIS) will be get timed for not to exceed 15 minutes, done by [as just in the process of request- t there then be a period for the transaction of routine morning business, to exceed 30 minutes, which mentioned, make it about 10:45 when the Senate resumes its consideration of the un- business tomorrow.

BYRD. The Senator understood that it would be embarrassing for effect W State's opening statement on the Treaty. This matter has received great attention, and it is of first importance.

Now amendments are pending, it may be someone else could carry on un- got through with the Secretary of when the But I would not feel it proper for today, if get up and leave in the middle of the Secretary of State's statement.

BYRD of West Virginia. Mr. Pres- ident, will ask unanimous consent, in view of the distinguished chairman of the Foreign Relations Committee on Foreign Relations has to meet that when the Senate completes business today, it stand in adjournment until 11 a.m. tomorrow.

PRESIDING OFFICER. Without further ado, it is so ordered.

BYRD of West Virginia. Mr. Pres- ident, now renew my request with re- to the transaction of routine morn- ing business on tomorrow.

BYRD of West Virginia. Mr. Pres- ident, the PRESIDING OFFICER. Without further ado, it is so ordered.

QUORUM CALL

BYRD of West Virginia. Mr. Pres- ident, I suggest the absence of a quorum, at this time that this will be the final transum call of the day.

PRESIDING OFFICER. The clerk will unfurl the roll.

The second assistant legislative clerk proceeded to call the roll.

BYRD of West Virginia. Mr. Pres- ident, I ask unanimous consent that the order for the quorum call be rescinded.

PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

BYRD of West Virginia. Mr. Pres- ident, the program for tomorrow is as follows:

The Senate will convene at 11 a.m. tomorrow. After the two leaders have been recognized under the standing order, the distinguished senior Senator from Oklahoma (Mr. HARRIS) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of the period for the transaction of routine morning business, the Chair will lay before the Senate the unfinished business, Calendar No. 402, H.R. 9910, a bill to amend the Foreign Assistance Act of 1961.

The distinguished minority leader indicated a few minutes ago that several Senators have amendments which will be ready for action by tomorrow, hopefully.

So, it is anticipated that tomorrow will be a day of action, a day in which there will be rollcall votes.

ADJOURNMENT TO 11 A.M.

BYRD of West Virginia. Mr. Pres- ident, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and (at 4 o'clock and 13 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, October 27, 1971, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 22, 1971 (under authority of the order of October 20, 1971):

SUPREME COURT OF THE UNITED STATES

Lewis F. Powell, Jr., of Virginia, to be an Associate Justice of the Supreme Court of the United States, vice Hugo L. Black. William H. Rehnquist, of Arizona, to be an Associate Justice of the Supreme Court of the United States, vice John Marshall Harlan.

Executive nominations received by the Senate October 26, 1971:

U.S. ARMY

The Army National Guard of the United States officers named herein for appointment as a Reserve commissioned officer of the Army, under provisions of title 10, United States Code, section 503(A) and 332:

To be major general

Brig. Gen. Ferdinand L. Doria, SSAN 227-50-9524 Adjutant General's Corps.

IN THE NAVY

The following-named officers of the U.S. Navy for temporary promotion to the grade of captain in the naval corps, as indicated, subject to qualification therefor as provided by law:

MEDICAL CORPS

Barnett, Joseph P., Jr. James, Stephen H. Johnson, Bennett L. Beach, Thomas B. Kendra, Stephan J. Bebby, James L. Knapp, Robert W. Cassidy, Walter J. Lansinger, Donald T. Collier, Edmonston F. Lobpreis, Ervin L. Collier, James C. Loew, Albert G., Jr. Comer, Ralph D. Mazzarella, Italo C. Cremona, Frederick J. Meredith, Robert C. Davis, John W. Metz, George E. Decterow, Bruce K., Jr. Mukomela, Arthur E. Early, Calvin B. Myers, Joseph S. Easterling, James F. Poley, Richard W. Elliott, William A. Proulx, Ronald A. Evans, Fred S. Reed, Ernest C., Jr. Fresh, James W. Seeley, Richard J. German, Roy E. Steffensen, John L. Gragg, Donald M. Steyn, Rolf W. Hauler, Donald R. Storz, William J., Jr. Herbert, James E. Van Peenen, Peter P. Hopping, Donald W. Wilson, Wayne R., Jr. Iuman, Charles E. York, Lowell T. Jacobs, Edmund P.

SUPPLY CORPS

Barrett, Charles W. Hennessy, William J. Baumgard, Perry E. Hill, Robert E. Bennett, William W. Hurt, Richard O. Boyce, Thomas A. Jackson, Arthur D. Callinan, Wayman G. Kerwath, Richard C. F. Jr. Kohl, Jacob D. Carpenter, Charles F. Landfair, Robert W. Sr. Lazarus, Steven Carpenter, Dan M. Mayer, William H. Carpenter, Norman E. McGillivray, Duncan Carson, Donald E. McMahan, Paul T. Cuson, Charles E. Morrison, Quinn B. Dickey, William H. Phleger, Charles P. Dreese, Richard N. Postak, John N. Dunlevy, John H. Postich, George Edsall, Van T. Sandrock, John E. Flores, Joseph L. Porter, Robert W. Schriener, James A. Gallagher, Robert F. Stevens, Robert J. Galves, Richard M. Thompson, Gerald J. Gillespie, James A., Jr. Unstead, Walter W. Giordano, Andrew A., Jr. Gudbranson, Larry G. Wadsworth, Ben A., Jr. Hamilton, Oliver W., Jr. Waller, Edmund M., Jr. Hendershot, Theodore R.

CHAPLAIN CORPS

Auel, Carl A. Johns, Harry D. Bevan, Leroy A. Laboon, John F., Jr. Carr, John F. Linney, Stanford E., Jr. Dillard, Donald H. Miller, Harry E. Goad, John T. Morrill, Giles D.

CIVIL ENGINEER CORPS

Armatrout, Merritt F. Raber, Robert R. Bannister, William H. Saravia, Benjamin L. Bleiderman, Jack C. Sutherland, Andrew G. Dixon, Olin L., III Sutley, Robert M. Doyle, Thomas J. Taylor, James T. Gates, Paul R. Williams, Edward J., Jr. Green, Lawrence J. Mooney, Malcolm T. Wilson, William L. Myers, Clayman C., Jr.

JUDGE ADVOCATE GENERAL'S CORPS

Bridges, Kenneth K. Newton, Robert B. Evans, LaVerne E. McHugh, James J. Fruchterman, Richard O'Donnell, John H., Jr.

Haight, Gardner M. Rogers, Richard J. Higgins, Clinton K., Jr. Salomon, Ferdinand F.

DENTAL CORPS

Allensworth, Thomas Gaston, Robert A. M., Jr. Hall, Ollie V., Jr. Elliott, Alfred Hause, Donald E. Kateske, O. Linnell E. Keay, Harry J. Kourakis, John W. Williams, William P. Collier, Richard D. Williamson, Jameson F. Cottrell, William W. Longton, Robert W. Evans, Charles G. Pulcher, Clyde L. Lee, Wallace D.

TOT RECORDED

REC'D DECEMBER 9 1971

REC'D DECEMBER 9 1971

REC'D DECEMBER 9 1971

REC'D DECEMBER 9 1971

S 20716

CONGRESSIONAL RECORD — SENATE

December 6, 1971

the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 6 o'clock and 33 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, December 7, 1971, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 6 (legislative day of December 4), 1971:

~~SUPREME COURT OF THE UNITED STATES~~  
Lewis F. Powell, Jr., of Virginia, to be an ~~Associate Justice~~ of the Supreme Court of the United States.

DEPARTMENT OF THE TREASURY

Romana Acosta Bannuelos, of California, to be Treasurer of the United States.

Edgar R. Friedler, of New York, to be an Assistant Secretary of the Treasury.

U.S. DISTRICT COURTS

Richard A. Dier, of Nebraska, to be a U.S. district judge for the district of Nebraska.

U.S. POSTAL SERVICE

The following-named persons to be Governors of the U.S. Postal Service for the terms indicated, to which offices they were appointed during the last recess of the Senate:

Elmer T. Klassen, of Massachusetts, for a term of 1 year.

Frederick Russell Kappel, of New York, for a term of 2 years.

Theodore W. Braun, of California, for a term of 3 years.

Andrew D. Holt, of Tennessee, for a term of 4 years.

George E. Johnson, of Illinois, for a term of 5 years.

Crocker Nevin, of New York, for a term of 6 years.

Charles H. Codding, of Oklahoma, for a term of 7 years.

Patrick E. Haggerty, of Texas, for a term of 8 years.

M. A. Wright, of Texas, for a term of 2 years.

60 DEC 10 1971

97-131728-550  
NOT RECORDED  
48 DEC 9 1971

*PAW*

Lewis F. Powell

8 ✓ PEP  
 Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 DeLoach \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Gates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Toyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

b6 b7C [REDACTED]

## America Is Not a Repressive Society

By LEWIS F. POWELL *47*

RICHMOND, Va.—At a time when slogans often substitute for rational thought, it is fashionable to charge that "repression" of civil liberties is widespread. This charge—directed primarily against law enforcement—is standard leftist propaganda. It is also made and widely believed on the campus, in the arts and theater, in the pulpit and among some of the media. Many persons genuinely concerned about civil liberties thus join in promoting or accepting the propaganda of the radical left.

A recent syndicated article by Associated Press writer Bernard Gavzer cited several such persons. According to Prof. Charles Reich of Yale, America "is at the brink of . . . a police state." Prof. Allan Dershowitz of Harvard describes the "contraction of our civil liberties."

The charge of repression is not a rifle shot at occasional aberrations. Rather, it is a sweeping shotgun blast at "the system," which is condemned as systematically repressive of those accused of crime, of minorities, and of the right to dissent.

Examples ritualistically cited are the "plot" against Black Panthers, the indictment of the Berrigans, the forthcoming trial of Angela Davis, and the mass arrests during the Washington Mayday riots.

The purpose of this article is to examine, necessarily in general terms, the basis for the charge of repression.

Is it fact or fiction?

There are, of course, some instances of repressive action. Officials are sometimes overzealous; police do employ unlawful means or excess force; and injustices do occur even in the courts. Such miscarriages occur in every society. The real test is whether these are episodic departures from the norm, or whether they are, as charged, part of a system of countenanced repression.

The evidence is clear that the charge is a false one. America is not a repressive society. The Bill of Rights is widely revered and zealously safeguarded by the courts. There is in turn no significant threat to individual freedom in this country by law enforcement.

Solicitor General Griswold, former dean of the Harvard Law School and member of the Civil Rights Commission, recently addressed this issue in a talk at the University of Virginia. He stated that there is greater freedom and less repression in America than in any other country.

So much for the general framework of the debate about alleged repression. What are the specific charges?

The attack has focused on wiretapping. There seems almost to be a conspiracy to confuse the public. The impression studiously cultivated is of massive eavesdropping and snooping by the F.B.I. and law enforcement agencies. The right of privacy, cherished by all, is said to be widely threatened.

Some politicians have joined in the chorus of unsubstantiated charges. Little effort is made to delineate the purposes or the actual extent of electronic surveillance.

*TJS*

The Washington Post  
Times Herald \_\_\_\_\_

The Washington Daily News \_\_\_\_\_

The Evening Star (Washington) \_\_\_\_\_

The Sunday Star (Washington) \_\_\_\_\_

Daily News (New York) \_\_\_\_\_

Sunday News (New York) \_\_\_\_\_

New York Post \_\_\_\_\_

The New York Times *41* \_\_\_\_\_

The Daily World \_\_\_\_\_

The New Leader \_\_\_\_\_

The Wall Street Journal \_\_\_\_\_

The National Observer \_\_\_\_\_

*77-121928-A-*

**NOT RECORDED**

152 DEC 15 1971

's World \_\_\_\_\_

NOV 3 1971

Date \_\_\_\_\_

*JW G*

P. 2

*77-121928*

*1368*

59DEC16 1971

the early morning rush hours. Violence and property destruction were not insignificant. Some 39 policemen were injured. Indeed, Deputy Attorney General Kleindienst has revealed that the leaders of this attack held prior consultations with North Vietnamese officials in Stockholm.

Yet, because thousands were arrested, the American Civil Liberties Union and other predictable voices cried repression and brutality. The vast majority of those arrested were released, as evidence adequate to convict a particular individual is almost impossible to obtain in a faceless mob.

The alternative to making mass arrests was to surrender the Government to insurrectionaries. This would have set a precedent of incalculable danger. It also would have allowed a mob to deprive thousands of law-abiding Washington citizens of their rights to use the streets and to have access to their offices and homes.

Those who charge repression say that dissent is suppressed and free speech denied. Despite the wide credence given this assertion, it is sheer nonsense. There is no more open society in the world than America. No other press is as free. No other country accords its writers and artists such untrammeled freedom. No Solzhenitseys are persecuted in America.

What other government would allow the Chicago Seven, while out on bail, to preach revolution across the land, vastly enriching themselves in the process?

What other country would tolerate in wartime the crescendo of criticism of government policy? Indeed, what other country would allow its citizens—including some political leaders—to negotiate privately with the North Vietnamese enemy?

Supreme Court decisions sanctify First Amendment freedoms. There is no prior restraint of any publication, except possibly in flagrant breaches of national security. There is virtually no recourse for libel, slander, or even incitement to revolution.

The public, including the young, are subject to filth and obscenities—openly published and exhibited.

The only abridgment of free speech in this country is not by government. Rather, it comes from the radical left—and their bemused supporters—who do not tolerate in others the rights they insist upon for themselves.

Prof. Herbert Marcuse of California, Marxist idol of the New Left, freely denounces "capitalist repression" and openly encourages revolution. At the same time he advocates denial of free speech to those who disagree with his "progressive" views.

It is common practice, especially on the campus, for leftists to shout down, with obscenities any moderate or conservative speaker or physically to deny such speaker the rostrum.

A recurring theme in the repression syndrome is that Black Panthers and other dissidents cannot receive a fair trial.

The speciousness of this view has been demonstrated recently by acquittals in the New Haven and New York Panther cases—the very ones with respect to which the charge of repression was made by nationally known educators and ministers.

The rights of accused persons—without regard to race or belief—are more carefully safeguarded in America than in any other country. Under our system the accused is presumed to be innocent; the burden of proof lies on the state; guilt must be proved beyond reasonable doubt; public jury trial is guaranteed; and a guilty verdict must be unanimous.

In recent years, dramatic decisions of the Supreme Court have further strengthened the rights of accused persons and correspondingly limited the powers of law enforcement. There are no constitutional decisions in other countries comparable to those rendered in the cases of Escobedo and Miranda.

Rather than "repressive criminal justice," our system subordinates the safety of society to the rights of persons accused of crime. The need is for greater protection—not of criminals but of law-abiding citizens.

A corollary to the "fair trial" slander is the charge that radicals are framed and tried for political reasons. This is the worldwide Communist line with respect to Angela Davis. Many Americans repeat this charge against their own country, while raising no voice against standard practice of political and secret trials in Communist countries.

The radical left, with wide support from the customary camp followers, also is propagandizing the case of the Berrigans.

The guilt or innocence of these

people remains to be determined by juries of their peers in public trials. But the crimes charged are hardly "political." In the Davis case a judge and three others were brutally murdered. The Berrigans, one of whom stands convicted of destroying draft records, are charged with plots to bomb and kidnap.

Some trials in our country have been politicized—but not by government. A new technique, recently condemned by Chief Justice Warren Burger, has been developed by the Kunstlers and others who wish to discredit and destroy our system. Such counsel and defendants deliberately seek to turn courtrooms into Roman spectacles—disrupting the trial, shouting obscenities and threatening violence. It is they—not the system—who demean justice.

The answer to all of this was recently given by former California Chief Justice Roger J. Traynor, who said:

"It is irresponsible to echo such demagogic nonsense as the proposition that one group or another in this country cannot get a fair trial.

No country in the world has done more to insure fair trials."

America has its full share of problems. But significant or systematic government repression of civil liberties is not one of them.

The radical left—expert in such matters—knows the charge of repression is false. It is a cover for leftist-inspired violence and repression. It is also a propaganda line designed to undermine confidence in our free institutions, to brainwash the youth and ultimately to overthrow our democratic system.

It is unfortunate that so many non-radical Americans are taken in by this leftist line. They unwittingly weaken the very institutions of freedom they wish to sustain. They may hasten the day when the heel of repression is a reality—not from the sources now recklessly defamed but from whatever tyranny follows the overthrow of representative government.

This is the greatest danger to human liberty in America.

Lewis F. Powell, former president of the American Bar Association and one of President Nixon's nominees to the Supreme Court, wrote this article for the Aug. 1 editions of *The Times-Dispatch* of Richmond, Va.

The facts in summary, are as follows. The Department of Justice employs wiretapping in two types of situations: (1) against criminal conduct such as murder, kidnapping, extortion and narcotics offenses, and (2) in national security cases.

Wiretapping against crime was expressly authorized by Congress in 1968. But the rights of suspects are carefully safeguarded. There must be

a prior court order issued only upon a showing of probable cause. The place and duration are strictly controlled. Ultimate disclosure of the taps is required. There are heavy penalties for unauthorized surveillance. Any official or F.B.I. agent who employs a wiretap without a court order in a criminal case is subject to imprisonment and fine.

During 1969 and 1970, such Federal wiretaps were employed in only 309 cases. More than 900 arrests resulted, with some 500 persons being indicted—including several top leaders of organized crime.

The Government also employs wiretaps in counterintelligence activities involving national defense and internal security. The 1968 act left this delicate area to the inherent power of the President.

Civil libertarians oppose the use of wiretapping in all cases, including its use against organized crime and foreign espionage. Since the 1968 act, however, the attack has focused on its use in internal security cases and some courts have distinguished these from foreign threats. The issue will be before the Supreme Court at the next term.

There can be legitimate concern whether a President should have this power with respect to internal "enemies." There is, at least in theory, the potential for abuse. This possibility must be balanced against the general public interest in preventing violence (e.g., bombing of the Capitol) and organized attempts to overthrow the Government.

One of the current myths is that the Department of Justice is usurping new powers. The truth is that wiretapping, as the most effective detection means, has been used against espionage and subversion for at least three decades under six Presidents.

There may have been a time when a valid distinction existed between external and internal threats. But such a distinction is now largely meaningless. The radical left, strongly led and

with a growing base of support, is plotting violence and revolution. Its leaders visit and collaborate with foreign Communist enemies. Freedom can be lost as irrevocably from revolution as from foreign attack.

The question is often asked why, if prior court authorization to wiretap is required in ordinary criminal cases, it should not also be required in national security cases. In simplest terms the answer given by government is the need for secrecy.

Foreign powers, notably the Communist ones, conduct massive espionage and subversive operations against America. They are now aided by leftist radical organizations and their sympathizers in this country. Court-authorized wiretapping requires a prior showing of probable cause and the ultimate disclosure of sources. Public disclosure of this sensitive information would seriously handicap our counterespionage and counterversive operations.

As Attorney General John Mitchell has stated, prohibition of electronic surveillance would leave America as the "only nation in the world" unable to engage effectively in a wide area of counterintelligence activities necessary to national security.

Apparently as a part of a mindless campaign against the F.B.I. several nationally known political leaders have asserted their wires were tapped or that they were otherwise subject to surveillance. These charges received the widest publicity from the news media.

The fact is that not one of these

politicians has been able to prove his case. The Justice Department has branded the charges as false.

The outcry against wiretapping is a tempest in a teapot. There are 210 million Americans. There are only a few hundred wiretaps annually, and these are directed against people who seek to subvert our democratic form of government. Law-abiding citizens have nothing to fear.

In the general assault on law enforcement, charges of police repression have become a reflexive response by many civil libertarians as well as by radicals.

Examples are legion. Young people are being incited not to respect law officers but to regard them as "pigs." Black Panther literature, in the vilest language, urges the young to assault the police.

The New York Times and The Washington Post reported, as established fact, that twenty-eight Panthers had been gunned down by police since January 1968. Ralph Abernathy attributed the death of Panther leaders to a "calculated design of genocide." Julian Bond charged that Panthers are being "decimated by police assassination arranged by the Federal police apparatus." Even Whitney Young referred to "nearly 30 Panthers murdered by law enforcement officials."

These charges, upon investigation (by The New Yorker magazine, among others), turned out to be erroneous. The fact is that two—possibly four at most—Panthers may have been shot by police without clear justification. Many of the twenty-eight Panthers were killed by other Panthers. There is no evidence whatever of a genocide conspiracy.

But the truth rarely overtakes falsehood—especially when the latter is disseminated by prestigious newspapers. Millions of young Americans, especially blacks, now believe these false charges. There is little wonder that assaults on police are steadily increasing.

The latest outcry against law enforcement was provoked by the mass arrests in Washington on May 3. Some 20,000 demonstrators, pursuant to carefully laid plans, sought to bring the Federal Government to a halt.

This was unlike prior demonstrations in Washington, as the avowed purpose of this one was to shut down the Government. The mob attempted to block main traffic arteries during



*"The outcry against wiretapping is a tempest in a teapot. There are 210 million Americans. There are only a few hundred wiretaps annually, and these are directed against people who seek to subvert our democratic form of government. Law-abiding citizens have nothing to fear."*

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_

# Court Nominees Face Hearings Today



LEWIS F. POWELL JR.

Supreme Court nominees Lewis F. Powell Jr. and William H. Rehnquist face their first encounter today with the Senate Judiciary Committee, battleground of previous fights to confirm President Nixon's choices for the court.

A contest was assured over Rehnquist, 47, head of the Justice Department's office of legal counsel and a top aide to Attorney General John N. Mitchell, when the Leadership Conference on Civil Rights voted yesterday to oppose him. The congressional Black Caucus is opposing both Rehnquist and Powell, a 64-year-old Richmond lawyer.

Both men are slated to be introduced by the senators from Arizona and Virginia before the committee settles down to hearing testimony.

At the White House, press secretary Ronald L. Ziegler confirmed that President Nixon had conferred with Powell Oct. 19, one day before the American Bar Association disapproved two preferred nominees for the two vacancies and two days before his selection of Powell and Rehnquist was announced on national television. Ziegler said he was sorry he had been "wrong" in telling newsmen otherwise.

## Powell: Subdued but Effective

By John P. MacKenzie  
 Washington Post Staff Writer

"We all have our private arsenals," said the president of the American Bar Association, Lewis F. Powell Jr. "I have three shotguns, two rifles and two pistols and I have been trying to hit birds since I was a little boy."

Powell was addressing the ABA's legislature, the House of Delegates, on the only major crime issue on the agenda of the bar association's 1965 convention at Miami Beach. In retrospect,

Powell then was displaying some of the qualities that seem certain to win him confirmation as a justice of the Supreme Court with scant opposition.

The subject was federal gun control legislation and whether the ABA would go on record as favoring it. A parade of old-time bar leaders had extolled the virtues of self-reliance and the con-

See POWELL, A12, Col. 1

## Rehnquist: Admired yet Decried

By Leroy F. Aarons and Ken W. Clawson  
 Washington Post Staff Writers

Hordes of newsmen and civil libertarian investigators descended on Phoenix, Ariz., last week, some of them with the undisguised intention of "getting the goods" on William Hubbs Rehnquist, the Arizonan who is expected to be the primary target of opponents of President Nixon's Supreme Court nominations.

By week's end there was an accumulation of material sufficient to brand Rehnqu-



WILLIAM H. REHNQUIST

ist with the label of extreme conservative, but nothing to incriminate him in the manner of G. Harrold Carswell's exclusive country club membership or Clement Hayworth's business dealings.

There was also the fascinating phenomenon in which Arizona Democrats and liberals had high praise for Rehnquist's abilities and character, while at the same

See REHNQUIST, A12, Col. 1

77-121928-A  
 NOT RECORDED  
 DEC 16 1971

59 DEC 17 1971

# **Rehnquist Opposed by Civil Rights Group, Black Caucus**

**REHNQUIST, From A1**

time deplored his anti-civil rights sentiments.

Herbert Ely, Arizona Democratic chairman, went so far as to write a letter to the Senate Judiciary Committee recommending that Rehnquist be confirmed.

"If I were President I would not have appointed him, but if I were a senator I would vote to confirm him," Ely told The Washington Post.

Investigators like Richard Seymour of the Washington Research Project Action Council, a lobbying organization, sought to ferret out evidence of immorality, illegality or just plain nastiness and feed it back to Sen. Birch Bayh (D-Ind.) and groups expected to oppose Rehnquist. The Leadership Conference on Civil Rights and the congressional Black Caucus have already said they will oppose him.

Seymour and his wife spent a week on the project. There wasn't much to say:

- On Sept. 18, 1958, Rehnquist appeared with others, including Willis Stone, founder of the Liberty Lobby, on a panel discussion involving federal income tax. The panel was sponsored by a group known as Arizonans for America, a spin-off of a national organization, now defunct, called "For America," with headquarters in Washington.

"For America" was headed by Clarence E. Manning, an anti-Communist crusader. The Arizona chapter disintegrated in the early 1960s, some people say because its members began getting involved with the John Birch Society.

There is no evidence that Rehnquist was ever a member of the Arizonans for America or the John Birch Society. Those who know him say that he was not a joiner. His participation in the anti-income tax panel could imply that he was at least playing footsie with the far right in those days, but, as Walter Meek, a reporter for the Arizona Republic, remarked:

"In this state, five or ten years ago, anybody invited to speak even before an ultra-conservative outfit would go and do it...and, again, if you're a Republican you're likely to have friends in those outfits."

And by the mid 1960s, when the Birchers were struggling to capture the Republican Party, Rehnquist was staunchly in the corner of the Barry Goldwater-Richard Kleindienst wing, which at that time was considered the liberal wing of the party in Arizona.

• When Rehnquist was nominated for the Supreme Court, a former Arizona president of the NAACP, the Rev. George Brooks, charged that in 1965

Rehnquist confronted him outside the State Capitol and argued in abusive terms that a civil rights act later passed by the State Legislature should be opposed.

The Arizona NAACP promptly passed a resolution saying Rehnquist "openly harassed and intimidated the immediate past president of the NAACP... during a peaceful attempt to reach the legislative bodies to present grievances."

By the end of last week, Brooks was telling a different story. He now says that the discussion with Rehnquist was calm. "The tone was professional, constitutional and philosophical," he said.

He was neither harassed nor intimidated, Brooks added, but he said that in his opinion, Rehnquist is a "philosophical racist."

Scandal-seeking was a thankless task for the scores of investigators in Phoenix. It was far easier to compile a dossier of quotes, statements, letters to the editor, the contents of which would make a card-carrying liberal cringe.

Two of the most damaging were letters to the editor in 1964 and 1967 in which Rehnquist opposed both a public accommodations law and a school integration proposal for Phoenix. Both letters were released by the

Justice Department last week to take the steam out of an attack on Rehnquist by civil rights groups.

There was also a statement by Rehnquist before the June 15, 1964, meeting of the Phoenix City Council, which subsequently passed the public accommodations law. Rehnquist was one of three persons opposed to the law, compared with 30 speakers who favored it.

On Sept. 9, 1957, at a luncheon meeting of the Maricopa County Young Republican League, Rehnquist accused Supreme Court Justices Earl Warren, Hugo Black and William O. Douglas of "making the Constitution say what they wanted it to say." He called them "left-wing philosophers" but added that he was not accusing them of communism or Communist sympathies.

Rehnquist's background shows that he was clearly in sympathy with the positions he helped formulate after he joined the Justice Department in 1969.

But many of his aides and other government officials whom he worked with saw a broadening of his intellect and a softening of some hardline positions when he addressed himself to national problems. Rehnquist himself acknowledged in a recent interview that a broadening process had occurred and he felt he was

less parochial than he was as a private lawyer in Phoenix.

He is one of the best-liked officials by career Justice Department employees, who see his role as the super lawyer who provides the legal underpinning for opinions by Attorney General John N. Mitchell and President Nixon. His opposition to civil rights proposals back in Arizona were not known by most of his co-workers until the last few days.

Edward Layton, 56, a black messenger who has worked for the government 31 years — the last three assigned to Rehnquist's office — doesn't believe his boss is anti-civil rights. Layton said he was a GS-1 for all the years he worked for the government. Within six months after Rehnquist took office, Layton said, he was instrumental in upgrading Layton to GS-2 and upgrading another messenger, Carl Wellmon, to GS-3.

The whole thing grew out of Rehnquist's desire to talk sports, "any kind of sports," Layton said, pointing out that Rehnquist's son plays football and basketball for Langley High School in suburban McLean, Va.

John P. Frank, a leading constitutional and Supreme Court expert in Phoenix who is a Democrat, has seen

all sides of Rehnquist and his family since they moved to Phoenix in the mid-1950s. This is his appraisal:

"If I were to divide the categories (of criteria for Supreme Court candidates) in terms of legal ability, he is simply top notch.

"His character is absolutely unimpeachable. He is a thorough gentleman. I have no serious doubts that he should be confirmed.

"On the other hand, given my premises, he is enough of an extreme conservative that it is a deplorable appointment. He will represent the Goldwater view on the Supreme Court. Bill has been an intellectual force for reaction. I do not believe he will put the manacles back on the slaves, but I'm sure from his point of view it will be more than a pause . . . there will be backward movement. In terms of race relations, I would expect him to be retrograde. He honestly doesn't believe in civil rights and will oppose them. On criminal matters he will be a supporter of police methods in the extreme. On free speech, Bill will be restrictive. On loyalty programs, McCarthyism, he'll be 100 per cent in favor."

But by the normal standards of Supreme Court appointments, Frank says unequivocally that Rehnquist is entitled to be confirmed, regardless of his philosophy.

# Confirmation of Powell for Court Seat Seems Assured

**POWELL, From A1**  
stitutional right to bear arms.

"In all seriousness," Powell told the delegates, "this bill is a moderate and rational approach to an admittedly difficult problem. It will give enforcement officers a strong hand in the war on crime."

Powell and other bar officials snowed under the old-timers and the legislation was endorsed by a lopsided voice vote. Smoothly and in the most subdued and modulated tones, Powell had talked to his colleagues of the bar in a way they could understand.

This is the nominee who from all accounts did not agree at first with President Nixon that the Supreme Court is "the fastest track" for a lawyer. For him the private practice of law was the fastest track but taking an exposed position was not the best way of running on it.

Regulation of firearms sounded hard on sportsmen, but Powell could make it sound like one of the most effective crime-fighting measures. Federal funding to help the poor get legal services sounded socialistic, but Powell could package it as the salvation of the legal profession and its tattered public-be-damned image.

## Skillful Politician

Never a candidate for public office—his Richmond law firm would permit only the appointive public service of city and state school

boards—he has been rated one of the ablest politicians in Virginia.

Apparently a consistent advocate of keeping the public schools open in the Old Dominion, he nevertheless maintained close ties to the ruling Byrd political family without embracing their massive resistance to desegregation.

For all his reputed moderation in the racial sphere, however, Powell at 64 has begun to speak out more stridently and more colorfully about crime, patriotism and the duties of the legal profession.

Slogans don't usually win lawsuits, but Powell has turned out some fairly shrill rhetoric.

"The radical left—expert in such matters—knows the charge of repression is false. It is a cover for leftist-inspired violence and repression.... The attack has focused on wiretapping. There seems almost to be a conspiracy to confuse the public. The impression studiously cultivated is of massive eavesdropping and snooping by the FBI and law enforcement agencies."

Reprinted by FBI

These lines, written for the Richmond Times Dispatch, so pleased the FBI that they were reprinted in the October Law Enforcement Bulletin.

Noting, with the abandon of one who did not expect to be on the Supreme Court, that the issue was before the justices this term for a decision, Powell spoke of the needs of government to

protect itself by wire tapping. As for "domestic" subversives where the federal power was not so clear, he said "there may have been a time when a valid distinction existed between external and internal threats. But such a distinction is now largely meaningless. The radical left, strongly led and with a growing base of support, is plotting violence and revolution..."

The precise legal issue, however, is not how grave the danger may be from either internal revolt or foreign aggression, but whether the electronic search for subversives must have the approval of courts in the form of a warrant. The issue for Powell the justice will be how strictly to construe the Fourth Amendment, which forbids search warrants except on "probable cause" and a law officer's sworn word that such cause exists.

All speeches by bar presidents use words like "balance" and "moderation," because the ABA is 150,000-member conglomerate of legal specialists with a significant number of liberals as well as conservatives in high positions. This explains some of Powell's frequent calls for a return-swing of the "pendulum" toward the interests of society rather than the criminal. But it does not explain the depth of his opposition to the criminal law decisions of the Warren Court.

In the dissent written by Powell for himself and other members of President

Johnson's National Crime Commission, Powell opposed not only the *Miranda v. Arizona* confessions ruling of 1966, but several other Supreme Court decisions, some much less well known.

For example, the court ruled in 1965 that a prosecutor may not comment on the refusal of a defendant to take the witness stand in a state court. Powell said a constitutional amendment should be considered to overcome this ruling.

To many, a prosecutor's comment had been long considered a penalty against the defendant for exercising his right not to be a witness against himself, a dramatic way of prejudicing a jury by insinuating that the defendant has something to hide. Since under the American system the accused isn't supposed to have to prove anything, the prosecutor's taunt smacked more of the European inquisitional system of justice. That is a system Chief Justice Warren E. Burger has admired along with others who think city crime and the "right to silence" don't mix.

Powell's record as a city and state school board leader remains to be fleshed out in Senate hearings beginning today — unless the Judiciary Committee abandons all critical questioning.

Civil rights workers are displeased at the thought of confirming anyone who was even remotely connected with the five-year shutdown of public schools in Prince Edward County. Defeated nominee Clement F. Haynsworth Jr. was roundly con-

demned for pronouncing the school closings perfectly constitutional since they fell with equal weight on both races and rich and poor alike.

#### Board Accused

Nevertheless, the leadership Conference on Civil Rights decided yesterday to take no stand on Powell while actively opposing Assistant Attorney General William H. Rehnquist. The judgment on Powell seems to be that his role was far from central though the state board of education, which Powell headed, is accused in pending litigation of violating the Constitution

by doing little to desegregate Virginia schools since 1954.

Figures subpoenaed from the state government during the long trial over Richmond's racial education patterns showed that Powell's law firm received \$43,915 from the state and localities for defending desegregation suits.

More than half that amount came from a friend-of-the-court brief filed in last spring's Supreme Court busing cases. It was the first desegregation business since 1960 for the firm, which made a corporate decision to cease civil rights work for the state about that time.

## "By Far the Most Important Appointments...?"

By contrast with the names of prospective nominees to the Supreme Court that had been circulated in advance, President Nixon's choices of Lewis F. Powell Jr. and William H. Rehnquist for the two seats now vacant go a long way toward restoring the job of a Supreme Court justice to its proper perspective. The idea, which had seemed to be prevalent and, in fact, determinant of late—that something other than excellence ought to control the selection process—is one which we hope has been permanently put aside; it ought to be self-evident that men, or women, who are nominated for that court should have demonstrated that their intellects and their capacity for judgment are among the best that the nation can offer. The comments of the President in outlining the criteria by which he selected these two men suggest that he understands that point and refute to a considerable extent the impression created by most of the names placed before the public in recent weeks.

This is not the time for a definitive judgment on the qualifications of either Mr. Powell or Mr. Rehnquist to sit on the court; there will be ample opportunity for that as hearings proceed before a Senate committee and the evidence is presented there. But at first glance, the records of these two men seem to place them in a category quite different from that of the six possibilities submitted by Attorney General Mitchell to the American Bar Association last week. Mr. Powell is well known and highly regarded throughout the legal world as well as in Virginia. When the President complained bitterly last year that the Senate would not confirm a Southerner because of a bias against that region, Mr. Powell was widely suggested as a Southerner who would be confirmed because of his distinguished and moderate record. Mr. Rehnquist, almost

Tolson	_____
Felt	_____
Rosen	_____
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Cleveland	_____
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

The Washington Post	11	12
Times Herald	_____	_____
The Washington Daily News	_____	_____
The Evening Star (Washington)	_____	_____
The Sunday Star (Washington)	_____	_____
Daily News (New York)	_____	_____
Sunday News (New York)	_____	_____
New York Post	_____	_____
The New York Times	_____	_____
The Daily World	_____	_____
The New Leader	_____	_____
The Wall Street Journal	_____	_____
The National Observer	_____	_____
People's World	_____	_____

Date OCT 22 1971

59 DEC 17 1971

72-66128-A  
FBI - WASH. D.C.  
10/22/71

a "generation younger than Mr. Powell" has yet to make such a mark but that should not be counted heavily against him if a close examination of his record reveals the quality of excellence and capacity for growth of which the President spoke.

Our initial impression, then, is that the President has done far better in selecting these nominees than the public has been led to expect by his earlier struggle on behalf of Judge Carswell and by the names that had been purposefully bruited about more recently. Indeed, we have considerable sympathy for those whose names were so floated and who now have to live with the judgments that their peers have cast upon them. Somehow, we have a feeling that this would not have happened at all if the administration had kept its eye throughout his selection period on the standard of excellence implicit in the President's acknowledgment last night that nominations to the Supreme Court are "by far the most important appointments" that a President must make.

While we do not agree, of course, with the other half of Mr. Nixon's criteria—that the nominees must necessarily have a philosophy that will—allegedly—tip the scales of justice toward the government in criminal cases—we do agree with his closing words of support for the court as an institution. Much that Mr. Nixon has said in the past has been interpreted to be part of an attack on the court and on the role it has in American government. So his declaration of support for the court and his urging that all Americans obey its decisions whether they like them or not will help, along with his acceptance of a standard of excellence in the court's members, to put that institution back on the high pedestal where it belongs.

Tolson  
 Felt  
 Rosen  
 Mohr  
 Bishop  
 Miller, E.S.  
 Callahan  
 Casper  
 Conrad  
 Dalbey  
 Cleveland  
 Ponder  
 Bates  
 Tavel  
 Walters  
 Soyars  
 Tele. Room  
 Holmes  
 Gandy

b6/b7c



UPI-6

(COURT)

WASHINGTON--PRESIDENT NIXON'S SURPRISE NOMINATIONS OF WILLIAM H. REHNQUIST AND LEWIS F. POWELL JR. TO THE SUPREME COURT ARE BEING GREETED WITH OPTIMISM AND GUARDED REACTION, EXCEPT FOR NEW YORK MAYOR JOHN LINDSAY AND THE NATIONAL WOMEN'S POLITICAL CAUCUS.

"WE CAN ONLY CONCLUDE THAT THE IMAGINATION OF MR. NIXON OR THAT OF HIS ADVISERS IS LIMITED, THAT THEIR ESTIMATION OF THE INTELLIGENCE OF WOMEN IS LOW, AND THAT THEIR UNDERSTANDING OF THE ROLE WOMEN DO AND CAN PLAY IN THIS SOCIETY IS SADLY OUT OF DATE, THE POLICY COUNCIL OF THE WOMEN'S RIGHTS COALITION SAID.

THERE HAD BEEN SPECULATION THAT A WOMAN WOULD BE NOMINATED.

LINDSAY EXPRESSED DISAPPOINTMENT THAT REHNQUIST IS "UNDISTINGUISHED" AND POWELL "HAS THE APPEARANCE OF BEING IN SENSITIVE TO THE MOST BASIC PROBLEMS NOW DIVIDING THE COUNTRY."

BUT GENERALLY INITIAL REACTION THURSDAY NIGHT AND EARLY TODAY WAS EITHER GUARDED OR OPTIMISTIC.

PERHAPS RECALLING THE REJECTIONS OF COURT NOMINEES CLEMENT F. HAYNSWORTH JR. AND G. HARROLD CARSWELL AFTER APPARENTLY GOOD STARTS, SENATE REPUBLICAN LEADER HUGH SCOTT SAID REHNQUIST AND POWELL "APPEAR TO BE WELL QUALIFIED." IN THE ABSENCE OF INFORMATION NOT NOW AVAILABLE TO ME IT IS, OF COURSE, MY DESIRE TO SUPPORT THE PRESIDENT."

"THE MEN NAMED BY THE PRESIDENT TO THE SUPREME COURT ARE EXCELLENT CHOICES," HOUSE REPUBLICAN LEADER GERALD FORD SAID.

SEN. JAMES EASTLAND, D-MISS., CHAIRMAN OF THE JUDICIAL COMMITTEE WHICH WILL HOLD HEARINGS ON THE NOMINATIONS, CALLED REHNQUIST "A GREAT MAN" AND A "LAWYER'S LAWYER." EASTLAND SAID HE IS NOT FAMILIAR WITH POWELL.

SEN. BIRCH BAYH, D-IND., WHO LED THE SUCCESSFUL OPPOSITION TO HAYNSWORTH AND CARSWELL, SAID REHNQUIST AND POWELL "APPEARED TO BE SIGNIFICANTLY BETTER QUALIFIED THAN SOME OF THE OTHER NAMES LEAKED TO THE PUBLIC."

OF THE DEMOCRATS CONSIDERED TO BE IN THE RUNNING FOR NEXT YEAR'S PRESIDENTIAL NOMINATION, ONLY SEN. EDMUND MUSKIE EXPRESSED APPARENT APPROVAL. "I WAS PLEASANTLY SURPRISED."

MUSKIE SAID, "I KNOW OF POWELL AND HIS ACHIEVEMENTS. THE PRESIDENT PICKED AN OUTSTANDING LAWYER." HE PREDICTED CONFIRMATION FOR BOTH WITHOUT A BATTLE.

WASHINGTON CAPITAL NEWS SERVICE

27-12192-AZ  
TOP SECRET  
DEC 16 1971

59 DEC 17 1971

BUT SENS. GEORGE MCGOVERN AND HENRY JACKSON RESERVED JUDGMENT. MCGOVERN DID SAY HE WAS "SORRY" THAT NIXON DID NOT APPOINT A WOMAN. SEN. FRED HARRIS OF OKLAHOMA COULD NOT BE IMMEDIATELY REACHED FOR COMMENT.

SEN. SAM ERVIN, D-N.C., THE SENATE'S CONSTITUTIONAL LAW EXPERT, COULD SEE NO OPPOSITION FOR CONFIRMATION. HE BALED POWELL "A LAWYER OF GREAT ABILITY" AND PREDICTED REHNQUIST WILL MAKE A "GOOD" JUSTICE.

SEN. EDWARD KENNEDY, D-MASS., SAID POWELL WAS A "DISTINGUISHED INDIVIDUAL BY REPUTATION." KENNEDY SAID HE WAS "TREMENDOUSLY RELIEVED BY THE NOMINATIONS, BUT WAS "NOT PREPARED TO MAKE A FINAL JUDGMENT."

SEN. ROBERT BYRD, D-W.VA., AND ARKANSAS LAWYER HERSCHEL FRIDAY -- BOTH OF WHOM WERE SPECULATIVE CHOICES FOR NOMINATIONS -- SAID THEY WERE "HONORED" AND "GRATEFUL" THAT THEY HAD BEEN CONSIDERED BY THE PRESIDENT AND EXPRESSED CONFIDENCE THAT REHNQUIST AND POWELL WOULD BE SEATED ON THE COURT.

ROBERT W. MESERVE, PRESIDENT-ELECT OF THE AMERICAN BAR ASSOCIATION, SAID HE HELD POWELL IN "VERY HIGHEST REGARD" AND THAT HE "APPRECIATES (REHNQUIST'S) ACADEMIC RECORD."

REP. PAUL MCCLOSKEY, R-CALIF., SAID REHNQUIST IS CONSERVATIVE, BUT "HAS AN EXCELLENT LEGAL MIND AND WOULD, I BELIEVE, BE A WELCOME ADDITION TO THE COURT."

THE REHNQUIST NOMINATION WAS CRITICIZED BY THE REV. GEORGE BROOKS, FORMER PRESIDENT OF THE MARICOPA COUNTY, ARIZONA, CHAPTER OF THE NAACP.

BROOKS SAID REHNQUIST WAS "THE ONLY MAJOR PERSON OF STATURE IN THE STATE WHO OPPOSED THE ARIZONA CIVIL RIGHTS BILL IN 1968."

HE SAID HE WOULD "FILE A STATEMENT WITH THE JUDICIARY COMMITTEE..."

ALTHOUGH CONSTITUTIONAL PHILOSOPHIES CHANGE IN MEN SERVING LIFETIME TENURE ON THE NATION'S HIGHEST COURT, NIXON CLEARLY EXPECTED -- AND SAID HE DID -- THAT HIS NOMINEES WOULD BRING FORTH A "STRICT CONSTRUCTIONIST" MAJORITY ON THE BENCH "FOR GENERATIONS TO COME."

REHNQUIST, 47, A TALL, BALDING AND SLIGHTLY STOOPED MAN, IS THE BETTER KNOWN NOMINEE AND THE ONE MORE LIKELY TO STIR OPPOSITION, ESPECIALLY FOR HIS VIEW THAT THE GOVERNMENT HAS AN ALMOST UNLIMITED RIGHT TO WIRETAP. A REPUBLICAN, HE IS A MILWAUKEE-BORN LAWYER WHO PRACTICED IN PHOENIX BEFORE NIXON NAMED HIM ASSISTANT ATTORNEY GENERAL -- "THE PRESIDENT'S LAWYER'S LAWYER," NIXON CALLED HIM. POWELL, A SLENDER, SOFT-SPOKEN MEMBER OF A VIRGINIA FAMILY WITH ROOTS BACK TO COLONIAL AMERICA, IS BEST KNOWN FOR HIS SUBSTANTIAL BACKSTAGE ROLE IN CONVINCING THE STATE'S BEST FAMILIES TO ABANDON THE DOCTRINE OF "MASSIVE RESISTANCE" TO INTEGRATION WHICH HAD CLOSED MANY PUBLIC SCHOOLS IN VIRGINIA.

HE IS 64, AND NIXON HAD BEEN EXPECTED TO RULE OUT MEN THAT OLD. BUT, IN TALKING TO REPORTERS AFTER ANNOUNCING HIS CHOICES ON RADIO AND TELEVISION OF MEN WHOSE "NAMES YOU WILL REMEMBER," NIXON SAID OF POWELL, "SOME SAID HE WAS TOO OLD. BUT 10 YEARS OF HIM IS WORTH 30 YEARS OF MOST."

10/22-GE842A

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

UPI-7

## (THE GREAT GUESSING GAME)

(BY STEVE GERSTEL)

WASHINGTON--THERE ARE IN THE U.S. TODAY FIVE MEN AND TWO WOMEN WHO FOREVER CAN CLAIM THEY WERE SERIOUSLY CONSIDERED FOR AN APPOINTMENT TO THE SUPREME COURT. OR WERE THEY?

THE ONLY CERTAIN ANSWER IS THAT NONE OF THE SEVEN RECEIVED A COVETED NOMINATION TO THE SELECT CIRCLE OF NINE WHO SIT AS THE HIGHEST JUSTICES IN THE LAND.

OTHER ANSWERS, OTHER REASONS, ARE THE PRIVATE DOMAIN OF PRESIDENT NIXON AND ATTORNEY GENERAL JOHN MITCHELL, SUBJECT ONLY TO SPECULATION AND CONJECTURE.

FROM THE MOMENT OF THE ALMOST SIMULTANEOUS RESIGNATIONS OF JUSTICE HUGO BLACK AND JOHN HARLAN, THE GUESSING GAME WENT ON, AT TIMES ABETTED BY THE ADMINISTRATION.

ALMOST HALF-A-HUNDRED NAMES WERE BANDIED ABOUT, WHITES AND BLACKS, SOUTHERNERS AND NORTHERNERS, PROMINENT AND KNOWN. LEAKS WERE COMMONPLACE, FROM THE WHITE HOUSE, CAPITOL HILL, THE EXECUTIVE BRANCH, AND THE AMERICAN BAR ASSOCIATION. TRIAL BALLOONS WERE LOFTED WITH ALMOST DIZZYING FREQUENCY.

BUT THE TWO NAMES REVEALED LAST NIGHT AS NIXON'S CHOICES WERE NEVER LEAKED, NEVER MENTIONED UNTIL THE MOMENT THE PRESIDENT WENT ON NATIONWIDE TELEVISION.

IT WAS A PROCEEDING THAT SEN. BIRCH BAYH, D-IND., DENOUNCED AS "SORT OF A THREE-RINGCIRCUS IN WHICH THERE WAS A LITTLE BIT FOR EVERYBODY."

BUT TO A REPUBLICAN, LIKE SEN. WALLACE F. BENNETT OF UTAH, IT WAS BRILLIANT STRATEGY. HE HAPPILY SAID "THE PRESIDENT HAS AGAIN LEFT HIS DETRACTORS AND SECOND GUESSERS WITH THEIR MOUTHS HANGING OPEN."

10/22--GE845A

72-121728-A  
 100-1000000  
 DEC 16 1971

WASHINGTON CAPITAL NEWS SERVICE

59 DEC 7 1971

filed JX

# Transcript of the President's Announcement on Two Nominees for Supreme Court

Following is a transcript of President Nixon's televised announcement of his Supreme Court appointments last night, as recorded by The New York Times:

Good evening.

During a four-year term the President of the United States sitting at this desk in this historic room makes over 3,000 major appointments to various Government positions.

Appointments he makes are those to the Supreme Court of the United States. Presidents come and go, but the Supreme Court through its decisions goes on forever.

Because they will make decisions which will affect your lives and the lives of your children for generations to come, I should like to share with you tonight my reasons for selecting the two individuals whose names I will send to the Senate tomorrow for confirmation as Justices of the Supreme Court of the United States.

#### Scores Recommended

Over the past month I have received thousands of letters from all over the country recommending scores of able men and women for appointment to the two vacancies on the Court.

Because one of the vacancies is that left by the retirement and death of Mr. Justice Black who was a United States Senator before he was appointed, there has been a strong support for the appointment of a member of the Senate or House, so that the point of view of the Congress would be represented on the Court.

A great number of letters have recommended the appointment of a woman, since no woman has ever been appointed to the Supreme Court of the United States.

And a number of others have recommended the appointment of representatives of religious, racial and na-

tionality groups not presently represented on the Court. I believe, as I'm sure all Americans do, that the Supreme Court should in the broadest sense be representative of the entire nation.

#### Obvious Limitations

With only nine seats to fill, obviously every group in the country cannot be represented on the Court.

These are the criteria I believe should be applied in naming people to the Supreme Court: First, the Supreme Court is the highest judicial body in this country. Its members, therefore, should above all be among the very best lawyers in the nation.

Putting it another way, in the legal profession, the Supreme Court is the fastest track in the nation and it is essential that the Justices on that Court be able to keep up with the very able lawyers who will appear before that Court arguing cases.

The two individuals I am nominating to the Court meet that standard of excellence to an exceptional degree.

The second consideration is the judicial philosophy of those who are to serve on the Court.

Now I emphasize the word "judicial" because whether an individual is a Democrat or Republican cannot and should not be a decisive factor in determining whether he should be on the Court.

#### Judicial Philosophy

By judicial philosophy I do not mean agreeing with the President on every issue. It would be a total repudiation of our constitutional system if judges on the Supreme Court, or any other Federal court for that matter, were like puppets on a string, pulled by the President who appointed them.

Tolson	_____
Felt	_____
Rosen	_____
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Cleveland	_____
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

The Washington Post	_____
Times Herald	_____
The Washington Daily News	_____
The Evening Star (Washington)	_____
The Sunday Star (Washington)	_____
Daily News (New York)	_____
Sunday News (New York)	_____
New York Post	_____
The New York Times	24
The Daily World	_____
The New Leader	_____
The Wall Street Journal	_____
The National Observer	_____
People's World	_____

Date OCT 22 1971

77-12192-A  
NOT INDEXED  
NOV 16 1971

59DEC17 1971

When I appointed Chief Justice Burger I told him that from the day he was confirmed by the Senate he could expect that I would never talk to him about a case that was before the Court.

In the case of both Chief Justice Burger and Mr. Justice Blackmun, and in the case of the two nominees that I shall be sending to the Senate tomorrow, their sole obligation is to the Constitution and to the American people, and not to the President who appointed them to their positions.

As far as judicial philosophy is concerned, it is my belief that it is the duty of a judge to interpret the Constitution and not to place himself above the Constitution or outside the Constitution.

He should not twist or bend the Constitution in order to perpetuate his personal, political and social views.

#### Disagreements Expected

Now this does not mean that judges who adhere to this philosophy that I have just described will find that they always agree on their interpretation of the Constitution. You seldom find two lawyers who will agree on any close question.

We have an excellent example of this in the record of the two judges whose vacancies I now have the duty to fill—Mr. Justice Black, Mr. Justice Harlan.

When they retired from the Court a month ago, most observers labeled Mr. Justice Black as a liberal, and Mr. Justice Harlan as a conservative. There was a measure of truth in this, but I would say that both were constitutionalists.

It is true they disagreed sharply in many cases. But as I learned, not only from reading their opinions over the years but from appearing twice before them in arguing a case before the Supreme Court, both were great judges with the brilliant ability to ask questions that went to the heart of the matter, and then to shake a decision based on their honest interpretation of the Constitution.

In the debate over the confirmation of the two individuals I have selected I would imagine that it may be charged that they are conservatives. This is true. But only in a judicial, not in a political sense.

#### Pledge on Nominations

You will recall, I'm sure, that during my campaign for the Presidency, I pledged to nominate to the Supreme Court individuals who shared my judicial philosophy which is basically a conservative philosophy.

Now let me give you an example of what that philosophy means. Twenty-one months ago Mr. Walter Lippmann wrote: The balance of power within our society has turned dangerously against the peace forces, against Governors and Mayors and Legislatures, against the police and the courts. I share this view.

Over the past few years many cases have come before the Court involving that delicate balance between the rights of society and the rights of defendants accused of crimes against society. And honest and dedicated constitutional lawyers have disagreed as to where and how to maintain that balance.

As a judicial conservative, I believe some Court decisions have gone too far in the past in weakening the peace forces as against the criminal forces in our society.

In maintaining—as it must be maintained—the delicate balance between the rights of society and defendants accused of crimes, I believe the peace forces must not be denied the legal tools they need to protect the innocent from criminal elements.

And I believe we can strengthen the hand of the peace forces without compromising our precious principle that the rights of individuals accused of crimes must always be protected.

It is with these criteria in mind that I have selected the two men whose names I will send to the Senate tomorrow. Everything that Lewis F. Powell has undertaken he has accomplished with distinction and honor, both as a lawyer and a citizen.

Excellence has marked his career since his days as a student at Washington & Lee where he was Phi Beta Kappa and first in his class at Law School. He has practiced law in Richmond since 1931 except for four years of distinguished service during World War II.

In his unique legal career he has received virtually every honor the legal profession can bestow upon him. He has been president of the American College of Trial Lawyers, president of the American Bar Foundation, president of the American Bar Association.

#### Leadership by Powell

In that latter role he provided leadership in the provision of legal services for the needy and for the revision of the standards for administration of criminal justice.

Lewis Powell is from Virginia. But like another great Virginian, Chief Justice Marshall, Lewis Powell is recognized by his legal colleagues throughout the nation as being a man who represents not just Virginia and the South—he is first and foremost a very great American.

William Rehnquist has been outstanding in every intellectual endeavor he has ever taken. He was graduated from Stanford University, Phi Beta Kappa, 1948. He graduated first in his class from the Stanford University Law School in 1952.

And then he was awarded one of the highest honors a law graduate can achieve: He was chosen as law clerk for Mr. Justice Robert Jackson, one of the most outstanding members of the Supreme Court in the past half-century.

In this position, he acted as legal assistant to the justice, and his duties included legal research of the highest order.

#### Rehnquist's Experience

On leaving the Court, Mr. Rehnquist engaged in the general practice of law for 16 years in Phoenix, Arizona, until 1969 when I appointed him Assistant Attorney General, Office of Legal Counsel.

Now that's a very technical word. Let me tell you what it means. The legal counsel has a very special function in the Department of Justice, serving as the chief interpreter for the whole Government of the Constitution and the statutes of the United States.

He is, in effect, the President's lawyers' lawyer.

I was a member of a major New York law firm, a senior partner. I have had the opportunity, both in Government and in private practice, to know the top lawyers in this country and, as a matter of fact, some of the top lawyers in the world.

And I would rate William Rehnquist as having one of the finest legal minds in this whole nation today. He has discharged his responsibilities in his capacity as the President's lawyer's lawyer with such great distinction that among the thousands of able lawyers who serve the Federal Government he rates at the very top as a constitutional lawyer and as a legal scholar.

Lewis Powell, William Rehnquist—those are names you will remember because they will add distinction and excellence in the highest degree to the Supreme Court of the United States.

#### Prompt Approval Urged

I'm asking the Senate to approve their nominations promptly so that the Court can move forward in the backlog of cases that is building up because of the two vacancies which have occurred in recent weeks.

Let me add a final word tonight with regard to a subject that is very close to my heart because of my legal background and because of years of study of the American system of government.

I've noted with great distress a growing tendency in the country to criticize the Supreme Court as an insti-

tution. Now let us all recognize that every individual has a right to disagree with decisions of a court. But after those decisions are handed down, it is our obligation to obey the law whether we like it or not.

And it is our duty as citizens to respect the institution of the Supreme Court of the United States.

We have had many historic, and even sometimes violent, debates throughout our history about the role of the Supreme Court in our Government. But let us never forget that respect for the Court as the final interpreter of the law is indispensable if America is to remain a free society.

Except for the contribution he may be able to make to the cause of world peace, there is probably no more important legacy that a President of the United States can leave in these times than his appointments to the Supreme Court.

I believe that Chief Justice Burger, Mr. Justice Blackmun, by their conduct and their decisions have earned the respect not only of those who supported them when I nominated them, but also those who opposed them.

And it is my firm conviction tonight that Lewis Powell and William Rehnquist will earn the same respect and that as guardians of our Constitution they will dedicate their lives to the great goal of building respect for law and order and justice throughout this great land of ours.

Thank you and good night.

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

O  
 Louise F. Poindexter

b6  
 b7c

UPI-120

(COURT)

INDIANAPOLIS, IND.--SEN. VANCE HARTKE, D-IND., SAID TODAY PRESIDENT NIXON PICKED HIS LATEST U.S. SUPREME COURT CHOICES FROM "THE MIDDLE OR LOWEST" RANKS OF THE NATION'S JURIST RATHER THAN THE HIGH. HARTKE TOLD A NEWS CONFERENCE HE WAS DISAPPOINTED NIXON DID NOT NOMINATE A WOMAN, SO THE NATION MIGHT HAVE "ACTUAL AND SYMBOLICAL RECOGNITION OF WOMEN" AS EQUALS.

"IT SEEMS UNFORTUNATE WITH THE NUMBER OF OUTSTANDING JURISTS THERE ARE, NOT TO BE MAKING A CHOICE FROM THE HIGHEST (RANKS) RATHER THAN THE MIDDLE OR LOWEST," HARTKE SAID.

-0-

NEWARK, N.J.--SEN. GEORGE MCGOVERN, D-S.D., SAID TODAY HE WAS SURPRISED BY PRESIDENT NIXON'S TWO NOMINATIONS FOR VACANCIES ON THE U.S. SUPREME COURT, BUT HE SAID HE WILL CLOSELY STUDY QUALIFICATIONS OF BOTH NOMINEES.

"THESE TWO MEN CAME OUT OF THE BLUE," MCGOVERN SAID.  
 "I DON'T KNOW ANYTHING ABOUT THEM. BUT I INTEND TO FIND OUT."

10-22--TS 236PED

77-121923-A  
 FILED  
 DEC 16 1971

59DEC17 1971

WASHINGTON CAPITAL NEWS SERVICE

## Hill Reaction Is Favorable To Nominees

By Spencer Rich  
Washington Post Staff Writer

Capitol Hill reaction to President Nixon's two Supreme Court nominees was tentative but generally favorable last night.

Many senators and congressmen expressed the view, however, that both the nominees are a clear improvement over some of the potential nominees whose names had ground through the rumor mill in recent weeks.

Republicans and Southern Democrats generally praised the President's choice of William H. Rehnquist and Lewis F. Powell Jr. for the two court vacancies.

No immediate opposition to the nominees was expressed, but Sen. Birch Bayh (D-Ind.), who led the Senate fight in which two prior Southern nominees were rejected, made clear that he expected to undertake a thorough study of the two men's records before

See REACT, A8, Col. 3

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

The Washington Post /  
Times Herald \_\_\_\_\_

The Washington Daily News \_\_\_\_\_

The Evening Star (Washington) \_\_\_\_\_

The Sunday Star (Washington) \_\_\_\_\_

Daily News (New York) \_\_\_\_\_

Sunday News (New York) \_\_\_\_\_

New York Post \_\_\_\_\_

The New York Times \_\_\_\_\_

The Daily World \_\_\_\_\_

The New Leader \_\_\_\_\_

The Wall Street Journal \_\_\_\_\_

The National Observer \_\_\_\_\_

People's World \_\_\_\_\_

Date 12/22/71

77-12128-A  
NOT INDEXED  
DEC 16 1971

59 DEC 17 1971

# Hill Reaction Favorable to Nominees

REACT, From A1

deciding whether to support or oppose them.

The same cautious position—not opposed to the nominees, but reserving judgment—was expressed by Sen. Edward M. Kennedy (D-Mass.), Sen. Philip A. Hart (D-Mich.), Sen. Hubert H. Humphrey (D-Minn.), the AFL-CIO and Joseph L. Rauh Jr., a leading figure in the Leadership Conference on Civil Rights. All except Humphrey played key roles in the defeat of the two prior Nixon nominees from the South—Clement F. Haynsworth Jr. and G. Harrold Carswell.

"Certainly, Lewis Powell and William Rehnquist appear to be significantly better qualified than the other names that the President leaked to the public," said Bayh.

"I want to reserve final judgment until I have a chance to investigate the full record as quickly as I can, but I have worked closely with Mr. Powell as president of the American Bar Association in our efforts to amend the Constitution," continued Bayh, a member of the Senate Judiciary Committee.

"I want to investigate the full record as quickly as I can so that these nominations can be confirmed as soon as possible. It is ironic that the President did not send these names earlier but tried to make the nominations political footballs . . . I have one regret, there wasn't a woman nominated."

Rauh, Zack and others said the civil rights views of the two nominees would be examined closely.

The absence of a woman nominee also was noted by Sen. George S. McGovern (D-S.D.), who said, "I am sorry the President did not take this great opportunity he had to end 200 years of injustice and appoint a woman to the Supreme Court." He had no further comment.

Powell and Rehnquist won warm endorsements from a large number of figures in the legal profession and a number of lawmakers.

Bernard G. Segal of Philadelphia, former American Bar



SEN. BIRCH BAYH  
... reserving judgment



SEN. JACOB JAVITS  
... 'distinguished lawyers'



SEN. JAMES O. EASTLAND  
... sets hearings date

Association president, said the President couldn't have "picked a better lawyer anywhere in the South" than Powell and credited Rehnquist with "a high degree of competence."

Senate Judiciary Committee Chairman James O. Eastland (D-Miss.), who announced that his committee would start hearings on the nominations a week from Tuesday, said he didn't know Powell, but said Rehnquist is a "lawyer's lawyer" and would make "an outstanding justice."

Virginia Sen. Harry Flood Byrd (Ind.) said he is "tremendously pleased" with Powell's nomination . . . He is an outstanding lawyer and a man of great ability."

William B. Spong (D-Va.) called the Powell appointment "excellent . . . He's a very distinguished lawyer, I have long said that a qualified Southerner could be confirmed by the Senate and I believe Powell will be confirmed."

Rep. Emanuel Celler (D-N.Y.), a strong civil rights backer, called the appointments "on the whole, good." He said Powell is "an arch-conservative," and "I would not have appointed him," but he has a great deal of experience. He said Rehnquist is "presentable, very erudite, he will grow on the job."

House GOP Leader Gerald R. Ford (Mich.) said both men had the qualifications "to be choices."

come first-class justices of the Supreme Court."

Sen. Jacob K. Javits (R-N.Y.) said the President had "tried to name two distinguished lawyers."

Rep. Paul N. McCloskey Jr. (R-Calif.) said, "I know Bill Rehnquist, we were at Stanford law school together.

"Although he has conservative views, he has an excellent legal mind and will be a welcome addition to the Supreme Court."

Senate Minority Leader Hugh Scott (R-Pa.) urged prompt hearings and said that "in the absence of information not now available to me, it is of course my desire to support the President. It may be that I will have no further statement until after hearings have been completed by the Judiciary Committee."

Virginia Gov. Linwood Holton (R) called Powell "a great Virginian, one of the most highly qualified lawyers anywhere, someone the South can really be proud of."

Sen. Frank Church (D-Va.) said, "Barring any unforeseen revelations, I think they'll both be confirmed."

Senate Majority Whip Robert C. Byrd (W.Va.), one of those rumored for the post earlier, said, "I feel very honored that the President gave my name consideration . . . I think that he has certainly selected two very excellent choices."

Lawrence E. Walsh, chairman of the American Bar Association's Committee on the Judiciary, said all he knew of the two nominees so far is "favorable," and he called Powell "one of the most esteemed presidents of the American Bar Association of recent years." He said Rehnquist is "an erudite, hard-working, dedicated lawyer who has distinguished himself as head of the Office of Legal Counsel" in the Justice Department.

In Little Rock Ark., Sen. John L. McClellan (D-Ark.) said he had hoped the nomination would go to Arkansas' Herschel Friday and he had "no right to be annoyed" that it did not, but the ABA was wrong in finding Friday not qualified. He said both nominees were unknown to him, but appeared "very able men."

The National Woman's Caucus criticized the President for failing to name a woman, saying he had "treated lightly" a "serious request for appointment of qualified women to the Supreme Court."

The most sour comment came from New York Mayor John V. Lindsay, who said in New York: "The President's Supreme Court nominees are a disappointment." He called Rehnquist "undistinguished" and Powell "someone who appeared 'insensitive' to the most basic problems now dividing the country."

# Lewis F. Powell Jr.

## A Respected Conservative Southern Democrat Who Might Have Gotten the ABA Blessing

By John P. MacKenzie  
Washington Post Staff Writer

Lewis F. Powell Jr., the conservative Virginia Democrat selected by President Nixon yesterday for the Supreme Court, is one of the nation's most respected and admired lawyers.

And according to lawyers who know him well, Powell would have been content to go on being just that—a very successful Richmond lawyer and not a justice of the Supreme Court.

Once installed on the high bench, however, few doubt that he would take an active role in the court's most sensitive cases and would not hesitate, when the occasion arose, to vote to topple some of the decisions he has joined in criticizing.

As a leader of a splinter group on President Johnson's national crime commission, Powell wrote a separate opinion to the commission's 1967 report, advocating one or more constitutional amendments to redress what he described—in terms quite similar to President Nixon's last night—as "an imbalance" between "the rights of the accused" and "the rights of citizens."

The rest of the commission considered court decisions as having a relatively minor impact on crime. They believed discussion of liberal Supreme Court decisions was a diversion from the task of raising the quality of police forces, overhauling inefficient courts and modernizing corrections systems.

But the Powell group said attention must also be paid to the impact of the 1966 *Miranda v. Arizona* confessions ruling.

"Few can doubt the adverse impact of *Miranda* upon the law enforcement process," he said. If implemented "in its full sweep, it could mean the virtual elimination of the pretrial interrogation of suspects."

It is precisely in the area of implementing the *Miranda* ruling that Powell could affect decisively the questions that concerned him in 1967. Even without a constitutional amendment or a direct overruling of the decision, Powell could vote whether to extend or diminish the safeguards given the accused under the Fifth Amendment's guarantee against self-incrimination.

Powell's genial, quiet manner often conceals the strictness of his own legal code and his preference for broader wiretap powers for police. In public speeches he sternly condemns disorderly demonstrators and those he considers disorderly lawyers—but always in a manner which does not give offense to the listener.

He has said in the past that his position on the rights of demonstrators is not far from that of former Justice Abe Fortas: there should be an area of protection for orderly persons, and swift punishment for the actions, not the speech, of disruptive ones.

If Powell lives up to his reputation, he would strike a more conservative chord in his judicial opinions, but he would do so in a way that would not shock the sensibilities of lawyers and observers who are concerned with the quality of the

court's work as well as which side wins.

His record on civil rights issues leaves wide open a major question about the Supreme Court's future course. Considered a moderate as head of the Richmond and the Virginia boards of education, he wrote a friend-of-the-court brief last year urging a go-slow approach to school busing. Most of his arguments were rejected by the unanimous court.

The President and Attorney General John N. Mitchell chose to bypass the American Bar Association's judiciary committee entirely for Powell's nomination. If the committee had been consulted, few doubt that Powell, unlike Mr. Nixon's previous reported choices, probably would have received the highest accolades for professional competence the ABA could bestow.

Powell was president of the ABA in 1964 and 1965. He took an activist's view of the president's role, pressing for change and working quietly but effectively to raise the ABA's public image.

Determined to keep the ABA from suffering the criticism heaped on the organized medical profession for opposing change, Powell pushed the ABA into vigorous endorsement of an expanded, generously funded and federally supported program of legal services for the poor.

Perhaps more than any other bar leader, Powell assured a skeptical legal community that lawyers, not social workers, would be in command of the program. That was enough to inspire ABA confidence in the program's formative years and create a formidable organized bar "lobby" to go to the program's aid when it came under political attack.

Tolson	_____
Felt	_____
Rosen	_____
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Cleveland	_____
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

The Washington Post Times Herald *A-8*

The Washington Daily News \_\_\_\_\_  
The Evening Star (Washington) \_\_\_\_\_  
The Sunday Star (Washington) \_\_\_\_\_  
Daily News (New York) \_\_\_\_\_  
Sunday News (New York) \_\_\_\_\_  
New York Post \_\_\_\_\_  
The New York Times \_\_\_\_\_  
The Daily World \_\_\_\_\_  
The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

Date *10/21/71*

*JL*  
File 74-12148-A  
NOT INDEXED  
59 DEC 16 1971

Powell spearheaded an ABA program of compiling a set of "Standards for Criminal Justice" under the chairmanship of conservative Circuit Judge J. Edward Lumbard of New York, who was succeeded by Circuit Judge Warren E. Burger for a brief period before his appointment to the Supreme Court.

The justice standards project was moderate in tone and sometimes "liberal" in proposing expanded rights for the accused. But its prime sponsors pushed for a new code of criminal standards partly in the hope that it would give "guidance" to the Supreme Court and help curb its expansionist decision-making.

Out of the criminal justice project grew the sometimes-controversial ABA guidelines to protect against pretrial publicity. A public trial, Powell argued, "does not mean a spectacle before the public at large. There are areas of privacy where respect for the individual precludes satisfaction of public curiosity."

His insistence on trials sheltered from the distraction of press publicity was in harmony with his drive within the American College of Trial Lawyers, a select group within the legal profession, for a code of procedure to deal with the disruptive defendant and the disruptive lawyer.

Powell's law firm—Huron, Williams, Gay, Powell & Gibson—is considered by many one of the most prestigious in the South. It has a unique rule against permitting its members to run for political office, but the rule does not preclude school board and other public service.

One assignment Powell undertook in 1969 stirred criticism from Sen. William Proxmire (D-Wis.). He was one of several prominent persons on a committee which studied Pentagon management policies. Proxmire called the study a "sham" dominated by defense industry representatives and said Powell's firm had major contractors as clients.

Powell, 64, was born in Suffolk, Va. He is a Phi Beta Kappa graduate of Washington and Lee University and was first in his law school class there. He holds a master of laws degree from Harvard. He is married to the former Josephine Rucker. His four children are Mrs. Richard S. Smith of New York, Mrs. Basil T. Carmody of Brussels, Belgium, Mrs. Christopher J. Sumner, a student at UCLA Law School and Lewis Jr., a student at Washington and Lee.

# Democrat, ABA Chief

**Lewis Franklin Powell Jr.** is a man who starts out quietly, comes on slowly, and usually finishes ahead.

As successful as any private lawyer practicing in his native Virginia, and as deft as any lawyer working his way in the inner circles of organized bar politics, Powell is nonetheless a shy, "very private" person to those who know him.

Dignity is the word that comes quickly to friends as they describe him. One friend put it more broadly: "Lewis is not high on wit, gaiety, brilliance or sophistication—but he does have a quick sense of humor."

Powell's reserved nature has often been evident as he takes the rostrum in bar association meetings. In a south Virginia drawl, Powell debates briefly and without drama. His speech pattern has a hesitation that comes from a slight stammer, and he does not raise his voice.

Something of the same tenor is evident in his private conversation and correspondence. One man who exchanges letters with Powell says it is common for him to say something critical in a way that this becomes clear only about half-way through the letter.

These qualities, his associates say, are the very ones that have made Powell successful in the "public life" that he has had all the while that he has been practicing law in Richmond—since 1931.

He has been notably successful as a senior partner of the state's biggest law firm—"The Factory" or "Hunton and Gruntin," as it is popularly known, Hunton, Williams, Gay, Powell and Gibson as it is formally named.

Powell, a Democrat, is best known in the Virginia capital not for his law practice, but for his role

as a conciliator in the decade of the 1960s when Richmond, like the rest of Virginia, had to desegregate its public schools under court order. Those were the days when many officials and civic leaders wanted to resist, "massively," against desegregation rulings.

#### "Terribly Bitter Time"

"This was a terribly bitter time in Richmond," recalls one man. "But Powell was the best possible man to have at that time; he waltzed right over this difficult time. If it were not for Lewis Powell, God knows what would have happened. He made desegregation happen, and he did it while holding onto his old red-neck friends."

Powell was chairman of the city's school board from 1952 to 1965 when then Gov. Linds Almond named him to the state board of education because of his "magnificent job" on the Richmond board.

The attorney also helped make his public reputation by working at reform of government structures — first on the charter of Richmond in 1947, as chairman of a revision commission, and second, on the state constitution in 1969, as a member of the revision panel.

Beyond Virginia, Powell has mixed his avid interests — law, education and patriotism — into a national reputation that is both admired and, in some respects, criticized.

"In his unique legal career," President Nixon said of Powell last night, "he has received virtually every honor the legal pro-

Tolson	_____
Felt	_____
Rosen	_____
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Cleveland	_____
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

The Washington Post	_____
Times Herald	_____
The Washington Daily News	_____
The Evening Star (Washington)	17/
The Sunday Star (Washington)	_____
Daily News (New York)	_____
Sunday News (New York)	_____
New York Post	_____
The New York Times	_____
The Daily World	_____
The New Leader	_____
The Wall Street Journal	_____
The National Observer	_____
People's World	_____

Date OCT 22 1971

77-120738-A file  
 LIBRARY  
 DEC 16 1971

59DEC17 1971

fession can bestow upon him. He's been president of the American College of Trial Lawyers (1969), president of the American Bar Foundation (1969-71), president of the American Bar Association (1964-65)."

His views on the law have increasingly made Powell a critic of court decisions on criminal law issues.

In a 1963 speech here, Powell argued that stronger law enforcement was necessary to help cure what he called a "moral sickness" which involved "lack of respect — for authority, for law and for the rights of others."

In a 1965 speech in Florida as president of the ABA, he spoke of the need for "first priority" on "the rights of citizens to be free from criminal molestation" and said that "the administration of criminal justice is in a state of considerable disarray."

#### Seeks Swifter Justice

In 1966, as a member of the Presidential Crime Commission, he joined in a statement attacking Supreme Court rulings upholding criminal suspects' right to silence. "It is doubtful," the statement said, "that when the 5th Amendment was adopted it was conceived that its major beneficiaries would be those accused of crimes...." Throughout these criticisms, however, Powell has repeatedly made clear that he favored some of the decisions providing "the safeguards of fair trial."

He was a key figure in getting the ABA started on a years-long project to work out new "standards" for criminal cases and appeals to improve what he called "the fairness, certainty and swiftness of criminal justice."

His views about respect for law have also led him to join in the campaign to insure that poor people have free legal services so that some of their troubles could be worked out within the law.

#### An Award From OEO

He served on the National Advisory Committee on Legal Services to the Poor, and was involved with establishing the Legal Services Program of the Office of Economic Opportunity—the anti-poverty agency. He received an award from OEO in 1968 for this role.

Over the years, Powell has come to believe that protests and demonstrations were tending to reduce respect for law, and his attacks on forms of "civil disobedience" have grown stronger.

"However successful the techniques of disobedience and coercion may be in the short run, and whatever the justification, they are self-defeating and imperil individual freedom in the long run," he said in a 1965 speech.

Campus uprisings in recent years have figured in Powell's denunciations of disobedience. It appears that he has gradually come to associate much of the college rioting as the product of a Communist or other revolutionary movement.

#### Sees a Merging Threat

Speaking in 1968 as president of the Virginia state board of education, Powell said "New Left" organizations were, in many cases, "Communist-oriented or supported," and he said that "student extremists have forfeited any right to remain as members of a university community."

A stern patriot who has worried openly that the Communist world is steadily gaining in strength and allies, Powell as begun to show concern that an external threat is merging with

what he calls a "radical left" threat inside this country."

His strongest statement on this came just recently, in an article which appeared in the Richmond Times-Dispatch Aug. 1 and which was reprinted in the FBI Law Enforcement Bulletin's October issue.

"The radical left, strongly led and with a growing base of support, is plotting violence and revolution," he wrote. "Its leaders visit and collaborate with foreign Communist enemies."

#### Fears Overthrow

He said that "there may have been a time when a valid distinction existed between external and internal threats," but added that such a distinction "is now largely meaningless."

The "radical left," he said, is using the "propaganda line" that America is a "repressive society" only as "a cover for leftist-inspired violence and repression." The ultimate aim, he said, is to overthrow the "democratic system."

In the court of the article, Powell defended the government's power to eavesdrop in internal security cases without a court order — an issue now pending before the Supreme Court.

He also spoke on other issues that are working their way up to the highest court — including the so-called "Berrigan case" in which a group of anti-war militants is charged with a bombing and conspiracy plot. He said such cases were not "political" trials. He also said that the murder trial of black militant Angela Davis was not a political case.

Charges that Miss Davis, the Berrigan defendants and other militants are being tried for "political" crimes, Powell wrote, "is the worldwide Communist line."

The article also defended the mass arrests made by District police May 1 during the "May-day" antiwar protests, saying that the alternative "was to surrender the government to insurrectionaries."



-United Press International.

**LEWIS F. POWELL JR.**

**LEWIS POWELL JR.**

# Nixon Names Powell. Behnquist Richmond Lawyer, Justice Counsel Chosen for Court

A-1

By Carroll Kilpatrick  
Washington Post Staff Writer

President Nixon last night surprised official Washington and the legal profession by announcing to the nation on television that he will nominate Lewis F. Powell Jr. of Richmond, Va., and Assistant Attorney General William H. Rehnquist as associate justices of the Supreme Court.

Their names had not figured in speculation nor were their names submitted to the American Bar Association's judiciary committee for clearance.

Powell, 64, is a widely known attorney and former ABA president who has never held public office except as head of the Richmond and Virginia boards of education. He is a Democrat.

Rehnquist, 47, is a native of Milwaukee who graduated from Stanford University and Harvard and practiced law in Phoenix, Ariz., before being named to the Justice Department in 1969. He is a Republican.

59 DEC 17 1971

Tolson	_____
Felt	_____
Rosen	_____
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Cleveland	_____
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

The Washington Post	_____
Times Herald	_____
The Washington Daily News	_____
The Evening Star (Washington)	_____
The Sunday Star (Washington)	_____
Daily News (New York)	_____
Sunday News (New York)	_____
New York Post	_____
The New York Times	_____
The Daily World	_____
The New Leader	_____
The Wall Street Journal	_____
The National Observer	_____
People's World	_____

OCT 22 1971

Date

27-121958-11  
FBI - MEMPHIS  
DEC 16 1971

The nominations of the two men, both highly regarded in their profession, are not expected to encounter bitter opposition as did the President's nomination of Judges Clement F. Haynsworth of South Carolina and G. Harrold Carswell of Florida, both of whom were rejected.

On Capitol Hill, initial reaction to the two nominations was generally favorable, with no immediate opposition apparent. Sen. Birch Bayh (D-Ind.), who led the successful fight against Haynsworth and Carswell, called last night's nominations clearly preferable to others whose nominations were rumored, but reserved a final decision until after Senate hearings.

The President's choice of Powell and Rehnquist, whom he described as conservatives in the law, came after bitter criticism of rumored choices and opposition from the ABA to two names prominently mentioned—Mildred L. Lillie of Los Angeles and Herschel H. Friday of Little Rock, Ark.

Immediately following the President's 14-minute speech, Attorney General John N. Mitchell told the ABA he is terminating the procedure of submitting names of potential Supreme Court nominees to the ABA in advance.

This reflected Mr. Nixon's extreme dissatisfaction with the ABA's judgment regarding names submitted and his unhappiness over disclosure of the ABA's recommendations.

Many observers, mindful of the President's desire to maintain the stronger political position he has gained as a result of recent foreign policy announcements and his moves in the economic field, doubted that he would sacrifice those gains by picking highly controversial figures for the Supreme Court.

The two nominees are slated to fill the vacancies left by the retirement and later death of Justice Hugo L. Black and the retirement of Justice John M. Harlan.

The President paid tribute to both of the former justices as "great judges" who differed sharply on the issues but not in their devotion to the Constitution.

Expressing his own philosophy and that of his nominees, Mr. Nixon said: "As a judicial conservative, I believe some court decisions have gone too far in weakening the peace forces against the criminal forces of our society."

He said he wished to see that balance redressed and that the "peace forces must not be deprived of the tools" needed to protect society against criminals.

He declared that both men meet his "standard of excellence to an exceptional degree."

Both were honor graduates of their law schools and Powell has received "every honor of the legal profession," the President said.

He described Rehnquist as the government's chief interpreter of the Constitution and statutes and "one of the finest legal minds in the whole nation today."

In concluding his remarks, the President said he was distressed by the "growing tendency" to criticize the court as an institution.

Apparently remembering his own recent criticisms, he said everyone had a right to disagree with decisions of the court. But after decisions are handed down, he said, it is the obligation of every American to "obey the law

and respect the institution of the Supreme Court of the United States."

If the two new nominees are confirmed, Mr. Nixon will have substantially remade the court in less than three years, with four appointees.

The nine-member body already has two Nixon appointees—Chief Justice Warren E. Burger and Justice Harry A. Blackmun.

The President said it is his "firm conviction" that Powell and Rehnquist "will earn the same respect" that Burger and Blackmun have won and that "as guardians of our constitution they will dedicate their lives to the great goal of building respect for law and order and justice throughout this great land of ours."

In the case of the latest nominations, Ziegler announced just before noon that the President had reached a decision and would announce the names in a television address to the nation.

A short time before Ziegler's announcement, newsmen were told that the President had postponed an appointment he had had at 10 a.m. yesterday with former Japanese Prime Minister Nobosuke Kishi.

That was the first clear hint that the President was intensively at work on a major problem. The meeting with Kishi will be held today, Ziegler announced later.

Another hint of the President's preoccupation was the time he was spending in his private office in the Executive Office Building. He was there much of Wednesday and returned to the isolated office early yesterday.

Even the Attorney General did not trespass upon the President's privacy although he was in telephone communication. The President talked to Mitchell by telephone a number of times Wednesday afternoon and evening and again yesterday morning, Ziegler said.

The press secretary declined to discuss the President's reaction to the findings of the American Bar Association's judiciary committee, but he made it abundantly clear that the President regarded its role as advisory only and would not be bound by it.

The first question put to Ziegler was whether, in light of the ABA findings, the President was disposed to go ahead with the nominations.

"I'm not going to discuss the consultations the Attorney General has had with the ABA," Ziegler replied. All of Ziegler's comments in recent days have made it clear it was the Attorney General, not the President, who was consulting the ABA.

"The President has decided to proceed," Ziegler added. "The Senate has a responsibility to give its advice and consent. The Constitution does not require the consent of the ABA."

"We welcome their advice, of course, but they do not have veto power."

Asked why the President chose to make the announcement on television, Ziegler replied only that Mr. Nixon made the decision to do it that way.

The President announced appointment of Burger as chief justice on television in May, 1969, but not the names of the three associate justices he had nominated prior to yesterday.

When a reporter asked if the President's sudden decision to make the announcement on television immediately after the ABA's adverse opinion might not be regarded as presidential pique, Ziegler replied: "No, I wouldn't say that."

Ziegler suggested that the President had virtually made his decision on the two individuals sometime Wednesday, but he said that the "final decision" was made yesterday morning.

Even Ziegler did not know the names when he briefed newsmen just before noon, he said, and some of the other White House aides knew only what they had read in the newspapers about who the nominees might be.

As Ziegler put it, the President "carries pretty much his own counsel" on such matters.

White House press secretary Ronald L. Ziegler told reporters later that the names of the nominees had not been submitted to the ABA because Mr. Nixon "doubted the confidentiality of the process."

Present in the room during the President's speech were Republican Sens. Roman L. Hruska (Neb.), Robert P. Griffin (Mich.), Strom Thurmond (S.C.), Robert Taft Jr. (Ohio) and Wallace F. Bennett (Utah).

The President did not speak to the nominees before his speech, Ziegler said. They were notified in advance by the Attorney General.

Asked if he were confident that the nominees would be confirmed, Ziegler said that Mr. Nixon "would not be sending their names to the Senate if he felt otherwise."

Following the nomination and easy confirmation of Burger as chief justice, the President in August of 1969 nominated Haynsworth of South Carolina, chief judge of the Fourth Circuit Court of Appeals, as associate justice to succeed Justice Abe Fortas, who had resigned in May.

Labor and civil rights groups led the fight against Haynsworth. Opponents accused him of conflict-of-interest because of rulings he had made which affected companies in which he held stock.

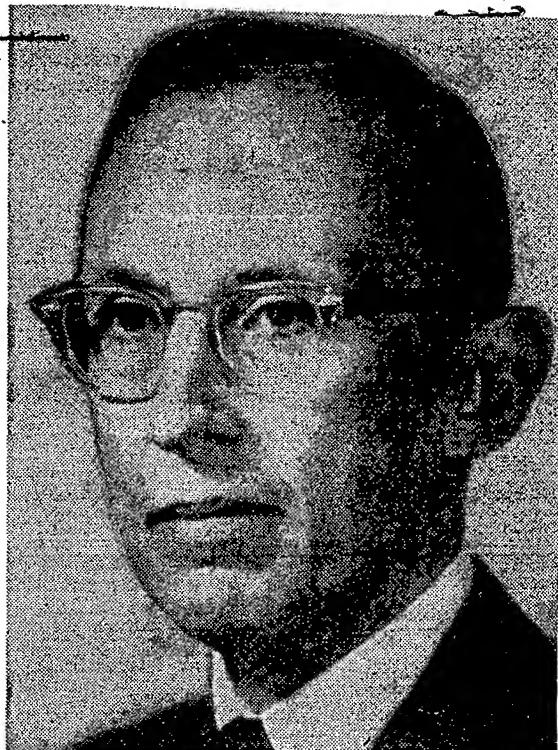
After a long fight, the Senate on Nov. 21, 1969, rejected Haynsworth's nomination by a vote of 55 to 45.

Early in 1970, the President nominated Carswell of Florida, at that time the newest member of the Fifth Circuit Court of Appeals, for the seat.

Civil rights groups, and to a lesser extent labor groups, led the fight against Carswell. He was defeated April 8, 1970, by a vote of 51 to 45.



**WILLIAM H. REHNQUIST**  
... assistant attorney general



**LEWIS F. POWELL JR.**  
... former ABA president

# Mr. Establishment

## Nominee for Supreme Court Is No Stranger to Elite

By Ken Ringle  
Washington Post Staff Writer

RICHMOND, Oct. 23—The law firm of Hunton, Williams, Gay, Powell and Gibson is not just part of Virginia's establishment: In many ways, it is the establishment.

And Lewis Franklin Powell Jr., the firm's senior partner who has been nominated to the Supreme Court by President Nixon, embodies to many here the type of cultured, responsible white leadership the upper classes of the South have so often promised and so often failed to produce.

Since 1931, when he was admitted to the bar, Powell has engaged in legal work that "has made me about the closest thing to a general practice lawyer as is possible for somebody my age."

Founded 70 years ago by the son of a Confederate general, Hunton, Williams — or "Hunton and Gruntin'" as it is familiarly known — has a blue-chip clientele that gives its lawyers access to some of the most powerful corporate board rooms in the state and nation.

Among the firms it serves are Virginia Electric and Power Co., the Appalachian Power Co., The Bank of Virginia, the Prudential Insurance Company of America, the Chesapeake and Ohio Railway Co., the Baltimore and Ohio RR Co., Colonial Williamsburg, Inc., and Dan River Mills, Inc.

Powell himself declined to discuss his specific clients.

*He is no stranger to corporate board rooms as the clubs in which the power elite gather: He is a member of the all-white Country Club of Virginia and the Commonwealth Club in Richmond; he maintains membership in the integrated University and the Century Clubs in New York.*

Powell, who lives in an exclusive, all-white section of Richmond, has extensive stock holdings, is a member of a number of corporate boards, and by the nature of his practice, has frequently lobbied for corporate interests in the Virginia General Assembly.

Acknowledging these ties, Powell said he believes that a previous role of special interest advocacy "has been the same with almost every judge when he was appointed to the bench." He said he believes it should prove no impediment to judicial neutrality.

Regarding his stock holdings, Powell said, "I will find out what is necessary to be done under the canon of ethics for the judiciary and comply," probably by putting his stocks in trust.

Powell declined to put a figure on his personal worth, which presumably is considerable. "I would rather not go into that now. If asked at the Senate hearings, of course, I will respond."

Tolson	_____
Felt	_____
Rosen	_____
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Cleveland	_____
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

The Washington Post Times Herald	_____
The Washington Daily News	_____
The Evening Star (Washington)	_____
The Sunday Star (Washington)	_____
Daily News (New York)	_____
Sunday News (New York)	_____
New York Post	_____
The New York Times	_____
The Daily World	_____
The New Leader	_____
The Wall Street Journal	_____
The National Observer	_____
People's World	_____

OCT 24 1971

*filed 9/7*  
72-121938-A  
FBI - BOSTON  
NOV 16 1971

59DEC17 1971

His life here, both as corporate lawyer and as civic leader, has been marked by dedication to the notion that institutions — and the law — can be made to serve society.

He was Richmond school board chairman during early years of painful desegregation; he was head of the state board of education; he served on the President's Crime Commission in the late 1960s.

#### 'An Advocate'

Of his nomination to the highest bench, Powell says: "I am primarily a lawyer. My basic interest has been to be an advocate.

"I would rather play in the game than be the umpire," he said in an interview this weekend. "I go onto the Court with deep personal misgivings about whether I will like it. In fact, I rather suppose I won't."

Then why accept?

"If you're asked by the President of the United States to go on the Supreme Court, one doesn't say no. But there are reasons for my acceptance that go beyond that.

"I might have said no to an appointment on almost any other agency or commission at this time in my life (Powell is 64), but the Supreme Court has a very special place in the life and attitude of any lawyer my age.

#### 'The Pinnacle'

"I don't know what the younger generation of lawyers thinks of the Supreme Court, but for those of my generation it is a revered institution, the pinnacle of our profession.

"When I was at Harvard Law School, I had a seminar in constitutional law under Justice (Felix) Frankfurter, who imbued all of us with tremendous reverence and respect for the court, and that respect and reverence has continued all my life."

Powell's nomination has been greeted by a degree of approval concerning the Supreme Court seldom seen publicly in this ingrown and conservative capital.

The newspapers here have glowingly lauded his nomination in virtually the

same breath with which they continue attacks on the high court's school busing decrees.

(On the same editorial page that calls busing a "pernicious doctrine" and urges a constitutional amendment to bar it, a recent edition of the Richmond News-Leader declared of Powell: "He is a Virginian in the grand tradition. . . How absolutely fitting it is that . . . he should be nominated to ascend to the highest court in the land. . .")

Powell's life as private and public advocate has deeply involved him in the frequently tortured life of the commonwealth in the past three decades.

Although Hunton, Williams was legal advisor to the state in the fight against the Supreme Court's 1954 decision, within a few years it stopped working for Virginia in the incessant legal challenges to desegregation.

Was there, Powell was asked, a conscious decision on the part of the firm not to handle such cases?

#### Doesn't Recall

"I don't know," he said, "not because I was not in position to know, simply because I do not remember.

"We certainly didn't feel that handling school cases would be immoral or anything like that. The state and the locality were certainly entitled to good representation and had there been no one else to provide it we would have done so.

"But there were other firms who wanted the business and as well as I remember we just felt such litigation was futile and it didn't interest us."

Black lawyers close to Virginia's civil rights battles, while lauding Powell's intellect and ability, are less enthusiastic than many liberal Richmond whites about Powell's racial stands.

"He knew what Brown meant: desegregate the school," said one black lawyer, "and he went for freedom of choice, which wasn't the same."

"He could have provided the leadership to get that kind of desegregation across in Richmond, but nobody in Virginia has done that for 20 years. Of course I can justify his actions by saying maybe he did what he could and if he had tried to do more he might have gotten his head blown off."

The black lawyers, who asked not to be identified, say they probably won't oppose Powell because he is "at least an able man and a lot better than we could have had."

Powell was Richmond school board chairman from 1952 to 1961 and "made desegregation work in the public schools," according to those who worked with him during that time.

Massive resistance, which gave the governor of Virginia power to close any public school faced with court ordered desegregation was the product of the Democratic state organization headed by the late Sen. Harry F. Byrd Sr.

"I was honestly devoted to the old gentleman," Powell recalled. "The first political speech I ever made was for him back in 1946.

"But I disagreed completely with the massive resistance policy. I thought it would destroy the public schools."

In Richmond, the "freedom of choice" program was adopted, permitting gradual integration of white schools while providing state tuition grants to students who wished to attend segregated private schools.

It was a middle ground position and it temporarily ruptured the Byrd organization.

Powell supported the senior senator later, and when Byrd's son, Harry F. Jr., was appointed to succeed his father in the U.S. Senate, Powell supported the younger Byrd — one of the chief spokesmen in the Gen-

eral Assembly for massive resistance. Last year, Byrd was re-elected as an independent. Powell headed his campaign committee.

"I have always been more concerned with issues than political parties," Powell said. "I regard myself as a

independent Democrat. I have over the years supported the Democrats in Virginia but have felt free nationally to vote for whomever I please."

For at least the past two decades that has been the position of Byrd Democrats

throughout the state, but Richmond acquaintances — including many more liberal than he — say it's an oversimplification to give Powell the Byrd Democrat label.

"He's much too independent and really not very political," said one.



Associated Press

Supreme Court nominee Powell with his wife: "Tremendous reverence and respect for the Court . . . all my life."

# Those Surprising

## Supreme Court Nominations

To the astonishment of almost everyone, including the American Bar Association's judiciary committee, President Nixon has named to the Supreme Court Lewis F. Powell Jr., of Virginia, and William H. Rehnquist, of Arizona. On the basis of the facts as presently known, both men are eminently qualified.

Early speculation had centered on Representative Richard H. Poff, a 10-term Republican from Roanoke who had sought nomination for a number of years. The Virginian was actively opposed by some civil rights and labor leaders and his opponents pointed out that he did not come close to meeting the high professional standards for the judiciary which he had urged Congress to write into law; Poff withdrew as the ABA's judiciary committee was about to consider his qualifications.

Mr. Nixon next sent to the committee, chaired by Lawrence E. Walsh, the names of six candidates, with instructions to concentrate its scrutiny on two of them, California Judge Mildred L. Lillie and Arkansas bond attorney Herschel H. Friday.

When the ABA committee refused to recommend either Friday or Mrs. Lillie — and the results of their deliberations became public — Mr. Nixon by-passed the committee and went on nationwide television Thursday night to announce his nominations of Powell and Rehnquist.

This is neither the time nor the place for a discussion of Friday's or Mrs. Lillie's legal credentials. Suffice it to say that the procedure of submitting the names of nominees to the ABA's committee in advance, agreed to last summer by Attorney General Mitchell, proved a poor way to establish a candidate's qualifications, inflicting unnecessary embarrassment and professional damage on both Friday and Mrs. Lillie, not to speak of the other four candidates.

There is, of course, no constitutional provision for the ABA to rule on any judge's qualifications. The responsibility for an appointment to the Supreme Court rests with the President and cannot be shared with any other body. Certainly the President has the right, perhaps the obligation, to seek and possibly act upon the advice of distinguished attorneys in such matters. But in view of the leaks in the "confidential" deliberations of the committee, we feel the President was right to instruct the attorney general to terminate the ill-starred experiment.

In naming the 64-year-old Powell to the court, Mr. Nixon is fulfilling his frequently restated vow to place a Southerner there, a matter of particular urgency with the retirement and death of Hugo L. Black.

The shy and courtly Richmond attorney, who reportedly turned down nomination for the seat presently held by Associate Justice Harry A. Blackmun, has ample intellectual and professional credentials: Phi Beta Kappa, first in his law class at Washington and Lee, a master's degree from Harvard, former president of the ABA (1964-65), of the American College of Trial Lawyers (1969) and of the American Bar Foundation (1969-71).

As chairman of Richmond's school board in the emotion-charged years from 1952-61, Powell, who is a Democrat, charted a moderate and reasoned course in desegregating the schools of the capital of the Old Confederacy. As 88th president of the ABA, he played a key role in bringing that body behind President Johnson's program of federal support for legal aid to the poor.

On law-and-order matters, he appears to be hard-nosed and, in our view, this is no bad thing. While he has supported the right of every accused person to a fair trial, he has placed great stress on "the rights of citizens to be free of criminal molestation" in an age which he has described as one "of excessive tolerance," to all of which we say amen. His experience in corporate law will be a real asset to the court.

Tolson	_____
Felt	_____
Rosen	_____
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Cleveland	_____
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

The Washington Post	_____
Times Herald	_____
The Washington Daily News	_____
The Evening Star (Washington)	_____
The Sunday Star (Washington)	_____
Daily News (New York)	_____
Sunday News (New York)	_____
New York Post	_____
The New York Times	_____
The Daily World	_____
The New Leader	_____
The Wall Street Journal	_____
The National Observer	_____
People's World	_____

OCT 24 1971

Date 72-101728-A  
BOY REC'D.  
DEC 16 1971

59 DEC 17 1971

Rehnquist, at 47, is too young to have achieved the national reputation which Powell enjoys within the legal fraternity. But his academic reputation is the equal of the older man's. Born in Milwaukee, he picked up his Phi Beta Kappa key at Stanford, where he also finished first in his law school class.

In 1952 he came to the Supreme Court to clerk for the late Associate Justice Robert H. Jackson. A Goldwater Republican, Rehnquist practiced law in Phoenix before joining the Justice Department in 1969 as assistant attorney general in charge of the Office of Legal Counsel, a post described by the President Thursday as making him "the President's lawyer's lawyer," or legal father-confessor to Mitchell.

Because he had the good fortune to be born in Wisconsin, educated in California and employed in Arizona—and has never held elective office—it is unlikely that any racist skeletons will be discovered in Rehnquist's closet. But he has been the legal architect of many of Mitchell's most controversial policies, including those dealing with police surveillance, the handling of anti-war demonstrations and the general toughening of criminal procedures. He is, in fact, a conservative theoretician who is bound to draw some flak from Senate liberals.

But while Rehnquist's record as an assistant attorney general is legitimate fuel for those who would light fires of opposition to him, that record is no sure indication of how Rehnquist might vote on the court when he is his own man. And his intellectual qualities and youth surely promise at least the possibility of development into a great jurist.

The initial reaction to Powell and Rehnquist, both on the Hill and elsewhere, has ranged from cautiously favorable to enthusiastic. This, of course, will not last. It is reasonably safe to predict that both civil rights activists and elements of organized labor will oppose Powell. Civil libertarians will try to make things hot for Rehnquist. In the hell hath no fury department, Women's Lib will be after both nominees.

As has been indicated, the academic credentials of both men seem excellent. As to their professional qualifications, the only valid criticism that could be made of either is that neither has any experience on the bench. Nor did seven of the 12 Supreme Court justices recently rated as "great" by a panel of 65 academic experts examining the records of 96 of the 98 men who have served on the court. In any case, Mr. Nixon's two previous appointments, of Chief Justice Warren Burger and Blackmun, went to sitting judges.

The latitude which the Senate should have in granting or refusing confirmation on political grounds is subject to dispute. Clearly, the President does not and should not have the same total freedom to name justices as he does cabinet members. The latter, in historical terms, are for but a day and serve at the pleasure of the President. The former, once they are confirmed, are on the Supreme Court for life and are expected to function as members of an independent, co-ordinate branch of government. Justices are not, in short, the President's men; they are and ought to be their own men, owing allegiance only to the Constitution, the nation and their consciences.

Nevertheless, when a President nominates men whose intellectual and professional qualifications are clear, men who are free of the taint of corruption and whose political views cannot be characterized as being of either the extreme right or the extreme left, then a strong presumption operates in favor of the President's nominees. It is, in short, up to the Senate to demonstrate that the nominees are morally or intellectually unsuitable. It is not up to the President to prove that there is no finer jurist in the land.

We do not have at our disposal at this time sufficient information to give our full and unqualified endorsement to either Powell or Rehnquist and we will return to the subject as the Senate debate develops. But on the basis of what is known at this point, both men would seem worthy to sit on the Supreme Court. The President did well to name them and the Senate ought to approach the debate on their confirmation with a largeness of spirit and lack of political rancor worthy of the upper house. We believe it will.



'Bill—have you a funny feeling between your shoulder blades?"

## Of Justices and 'Philosophies'

*E-1*

In announcing the nominations of Lewis Powell and William Rehnquist as associate justices of the Supreme Court, President Nixon declared that he had based his selection on two criteria (1) their "excellence" as lawyers and (2) their "judicial philosophy." There can be little doubt about what the President meant by the first criterion, or about the fact that his nominees met it. Both Mr. Powell and Mr. Rehnquist are well-educated and successful lawyers who seem intellectually equipped to compete on what Mr. Nixon characterized as "the fastest track in the nation."

What the President meant by "judicial philosophy" is far less clear. "Now I emphasize the word 'judicial,'" he said, and "by judicial philosophy I do not mean agreeing with the President on every issue." A justice, he continued, "should not twist or bend the Constitution in order to perpetuate his political and social views."

After assuring his audience that the nominees shared his judicial philosophy and that they were conservatives ("but only in a judicial not in a political sense"), the President went on to give an example of what a conservative judicial philosophy means to him: "As a judicial conservative I believe that some Court decisions have gone too far in the past in weakening the peace forces as against the criminal forces in our society. The peace forces must not be denied the legal tools they need to protect the innocent from criminal elements."

Two critically important phrases occur and recur in the President's words: "judicial philosophy" and "judicial conservative." Though their meaning may appear, to a layman, abundantly clear, Mr. Nixon's usage seems to fly in the face of traditional legal understanding of just what these words connote.

Thus, the President's law-and-order attitude is not a "judicial philosophy." It is just the sort of "personal political and social view" that the President emphasized should not be perpetuated by a Supreme Court justice.

A judicial philosophy deals with the role of the Court as an institution. It is responsive to questions such as: What precedential weight should be given to prior decisions? What power should the Court exercise over the other branches of the Federal Government and over the states? What tools of judicial construction should it employ in giving meaning to a constitutional or statutory provision? A judicial philosophy — if it is truly judicial rather than "political" or "social" — does not speak in terms of giving the peace forces "tools" to "protect the innocent from criminal elements."

A "conservative" judicial philosophy is one that respects precedent, and that avoids deciding cases on constitutional grounds whenever a narrower ground for decision is available. Most important, a judge with a conservative judicial philosophy — that is, employing the tools to effectuate his own political or social program — he is a decider of cases rather than an advocate of causes.

Oliver Wendell Holmes described such a judge as one who has "no thought but that of which he is bound," and who has learned "to solving a problem according to the rules by transcend [his] own convictions and to leave room for much that he would hold dear to be done away with . . ." In short, he is a judge who focuses his concern on process rather than result, and who lets the political chips fall where they may.

This is why it is so difficult to predict how

Tolson	_____
Felt	_____
Rosen	_____
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Cleveland	_____
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

The Washington Post	_____
Times Herald	_____
The Washington Daily News	_____
The Evening Star (Washington)	_____
The Sunday Star (Washington)	_____
Daily News (New York)	_____
Sunday News (New York)	_____
New York Post	_____
The New York Times	<i>E-1</i>
The Daily World	_____
The New Leader	_____
The Wall Street Journal	_____
The National Observer	_____
People's World	_____

*LL*  
*HL*  
*7*

Date **OCT 24 1971**

*LL*  
*HL*  
*7*

**DEC 16 1971**

a true judicial conservative will decide a given issue. For him, so much depends on how the issue is framed: on what the statute says; on the prior cases; on whether it arose in a Federal or state context. Justice Louis Brandeis was a judicial conservative, though a political liberal. Justice Holmes was a judicial and political conservative. But the judicial opinions of these giants tell us little about their individual political (or economic or social) views; for that we must go to their extra-judicial writings. Indeed, many people are surprised to learn how differently these men felt about the social and political issues of their day, since their judicial opinions were so similar.

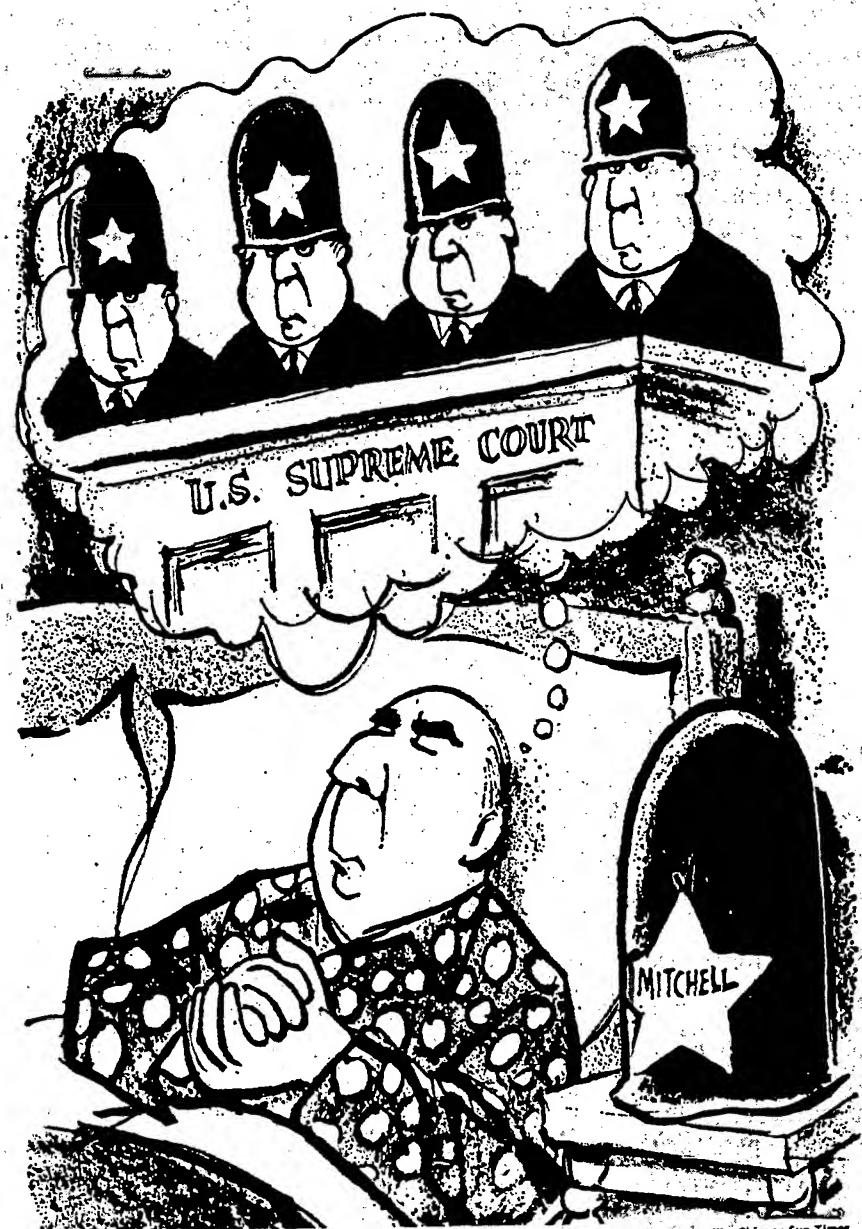
Justice James C. McReynolds, the inveterate opponent of New Deal legislation, represents the other side of the coin. A political conservative and a judicial activist, he reached out to strike down statutes that were inconsistent with his political and economic views.

Mr. Nixon's two previous appointments to the Supreme Court—Chief Justice Burger and Justice Blackmun—were also described as having a conservative judicial philosophy. Yet they have seemed to show no reluctance to overrule prior decisions or to "perpetuate [their] own political and social views," especially on issues of crime and civil liberties.

In the Harris case, for example, Chief Justice Burger wrote an opinion holding that a defendant who takes the witness stand in his own behalf can be confronted with an illegally obtained confession. This opinion significantly undercut the Court's prior decision in the Miranda case. Many observers commented that he had decided a critical constitutional issue that could well have been avoided considering the record of that case. In the James case—holding that welfare searches could be conducted without a warrant—Justice Blackmun overruled a long line of prior decisions, though the Government had sought a decision on a far narrower ground. Thus, in this sense, the two previous Nixon appointees come closer to reflecting the judicial activism of Justice McReynolds (coupled with his political conservatism) than the judicial conservatism of Justices Holmes or Brandeis.

It is too early, of course, to speculate about the judicial philosophies of President Nixon's most recent nominees. Since neither of them has ever served in the judiciary before or has written about judicial issues, virtually nothing is known about their views on precedent, judicial restraint and the other factors that go into making a true judicial philosophy. Mr. Rehnquist did make a speech last year suggesting that the Court should overrule decisions like *Miranda*, without feeling bound by "stare decisis" (former decisions)—a position which cannot be characterized as judicially conservative. Somewhat more is known about their attitudes toward law and order: They favor wire-tapping, increased police power to investigate and far greater protection for the victims of crime. (Mr. Rehnquist once wrote an article charging his fellow Supreme Court law clerks with "extreme solicitude for the claims of Communists and other criminal defendants, expansion of Federal power at the expense of state power, [and] great sympathy toward any government regulation of business.") More may be learned about their true judicial philosophies when the Senate Judiciary Committee considers their nominations in the weeks ahead.

—ALAN DERSHOWITZ  
Mr. Dershowitz is a professor of law at Harvard Law School.



BILL MAULDIN IN THE CHICAGO SUN-TIMES

**Nixon's Choices:**

# Why He Apparently Made a Last-Minute Switch

**WASHINGTON** — The American public was given a rare, fascinating and somewhat disquieting glimpse into Presidential decision-making last week as Richard Nixon, swept up in another judicial selection crisis, finally settled upon Lewis F. Powell and William H. Rehnquist as his nominees for the Supreme Court.

The Administration had accepted the American Bar Association as a partner in evaluating the candidates, and it was this effort to plumb the opinion of the legal profession that threw public light—and heat—on the Nixon Administration as the appointment decisions evolved.

As a result, the public was a fascinated observer as Mr. Nixon:

- Floated the names of six potential nominees—who were widely criticized as below par;

- Let it be known that the nominees would probably be two of the six, Herschel H. Friday of Little Rock and Judge Mildred L. Lillie of Los Angeles—who were then labeled “not qualified” by the A.B.A.;

- Finally went before television cameras to nominate Mr. Powell and Mr. Rehnquist—to the relief of almost everyone.

On the surface, the outcome seemed loaded with happy endings.

For Mr. Nixon there was the opportunity to declare his “respect for the Court as the final interpreter of the law” and to remind the electorate that he was fulfilling his pledge to appoint justices who will uphold

“the peace forces as against the criminal forces.”

Along the way, he had also scored several political points.

He had mollified the nation’s most restless majority group by indicating a desire to nominate a woman. He had thrown liberal Democrats into disarray by feinting a nomination at their conservative minority leader, Senator Robert C. Byrd. He had orchestrated his “Southern Strategy” by including four men from Southern and border states in his list of six candidates.

There had been early reports that Mr. Nixon had asked for TV time to vigorously defend his first choices, in an effort to rally public support. With this backing, it was feared, he would then try to ram his nominees through the Senate. The inevitable result: a divisive national dispute, laced with vituperation and polarizing appeals to Congress, and loaded with potential to harm the Supreme Court.

Instead, Mr. Nixon acted to avoid a fight.

As one Republican Senator, Wallace F. Bennet of Utah, said: “The President has again left his detractors and second guessers with their mouths hanging open.”

The nominees were men of legal distinction. Mr. Powell, a Richmond, Va., lawyer, is a former president of the A.B.A. who is highly regarded as an experienced, thoughtful attorney. At 64, he is considered a moderate on racial questions but has recently expressed strong law-and-order views on Government wiretapping, radicals and alleged subversion.

Mr. Rehnquist is an Assistant Attorney General who has demonstrated intellectual stature in drafting the Nixon Administration’s legal positions. A former Phoenix attorney, he espouses a Goldwater style conservatism complete with criticism of the liberal criminal law decisions of the Warren Court, and a belief that the Executive branch has strong inherent powers to combat criminal and subversive ele-

Some observers felt that the general public acceptance of Mr. Powell and Mr. Rehnquist might have been too uncritical. Under other circumstances, two nomi-

Tolson	_____
Felt	_____
Rosen	_____
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Cleveland	_____
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

The Washington Post	_____
Times Herald	_____
The Washington Daily News	_____
The Evening Star (Washington)	_____
The Sunday Star (Washington)	_____
Daily News (New York)	_____
Sunday News (New York)	_____
New York Post	_____
The New York Times	E-1
The Daily World	_____
The New Leader	_____
The Wall Street Journal	_____
The National Observer	_____
People's World	_____

OCT 24 1971  
Date \_\_\_\_\_

59 DEC 17 1971 / 36

121928-A  
DEC 16 1971

nees of such predominantly conservative hue might have generated sharp opposition.

As it was, Mayor Lindsay was a lonely critical voice. Senator Birch Bayh said he planned to make a careful investigation of their backgrounds.

Was the decision to pick distinguished nominees forced upon Mr. Nixon by outside pressures, against his own inclination to select lesser nominees? If not, did he stage an elaborate and devious charade, intending all along to triumphantly name Mr. Powell and Mr. Rehnquist?

As the details of the week's events were reconstructed, there were strong indications that Mr. Nixon fully intended to nominate Mr. Friday and Mrs. Lillie, and that he was forced by the A.B.A.'s disapproval to name instead the two men who were unveiled on television Thursday night.

The key to that probability was the public announcement made on July 23, 1970, by Attorney General John N. Mitchell that he would refer no potential nominee to the President without first checking his or her legal qualification with the A.B.A.'s Committee on the Federal Judiciary.

When the A.B.A. committee met on Wednesday, Senator John L. McClellan, a crusty Congressional power not to be lightly teased by the White House, was still confident enough of its intention to be preparing formal announcement of Mr. Friday's expected nomination.

But the A.B.A. committee, which had been rating Supreme Court nominees since the Eisenhower years without ever finding one not qualified, gave that rating to Mrs. Lillie by a vote of 11 to 1, and to Mr. Friday by a 6 to 6 vote.

The next evening Mr. Nixon named Mr. Powell and Mr. Rehnquist, and Attorney General Mitchell terminated the Administration's arrangement with the A.B.A., charging that there had been "unauthorized disclosure"—i.e., news leaks—of the committee's deliberations.

Indeed, it was reported that Mr. Nixon's pique at the A.B.A. was such that at a strategy ses-

sion he uttered what came to be the quote manqué of the week in gossipy Washington when he used a four-letter word to describe what should be done to the A.B.A.

Nevertheless, the A.B.A. committee will meet next weekend to rate the two nominees for the Senate Judiciary Committee.

It appears that in the appointment process the Nixon Administration attempted to accomplish too many political goals that were only incidental, at best, to the objective of maintaining a strong Supreme Court.

One result of the week's events was that the A.B.A.'s early involvement in the selection process, which had worked in this case to raise the level of distinction of the nominees, was abandoned by the Administration—apparently because it did affect the outcome.

But there may be a more important and lasting result: the level of expectation of the Senate, the legal profession and the public has been raised with respect to the quality of Supreme Court nominees. The Senate's struggles over the ethics of former Justice Abe Fortas and Clement F. Haynsworth Jr., and the qualifications of G. Harrold Carswell have not been all to the bad.

Some observers had begun to assert that the standards had become too rigorous; that the scrutiny of potential nominees had reached a fault-finding stage that was ruling out good judicial timber. It was recalled that struggles over Supreme Court justices used to be blessedly rare, and that the battles over Louis D. Brandeis, Felix Frankfurter and Judge John J. Parker—who was disapproved by the Senate—are remembered with distaste.

But this distaste carried with it an assumption that almost any person nominated by a President would be confirmed, even if his stature did not dignify the Court.

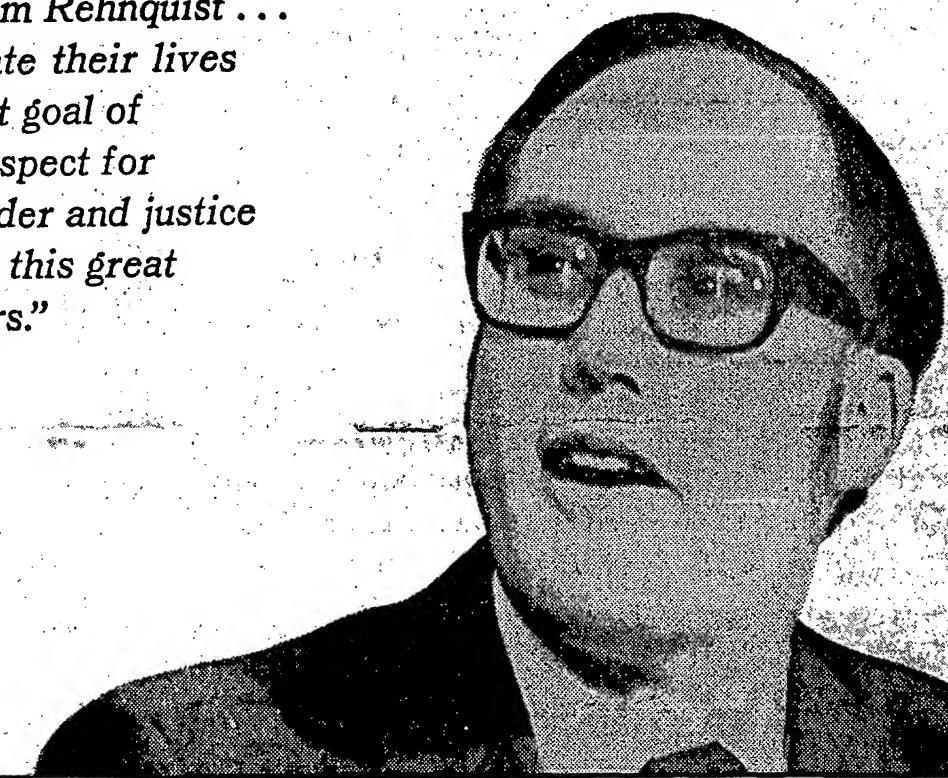
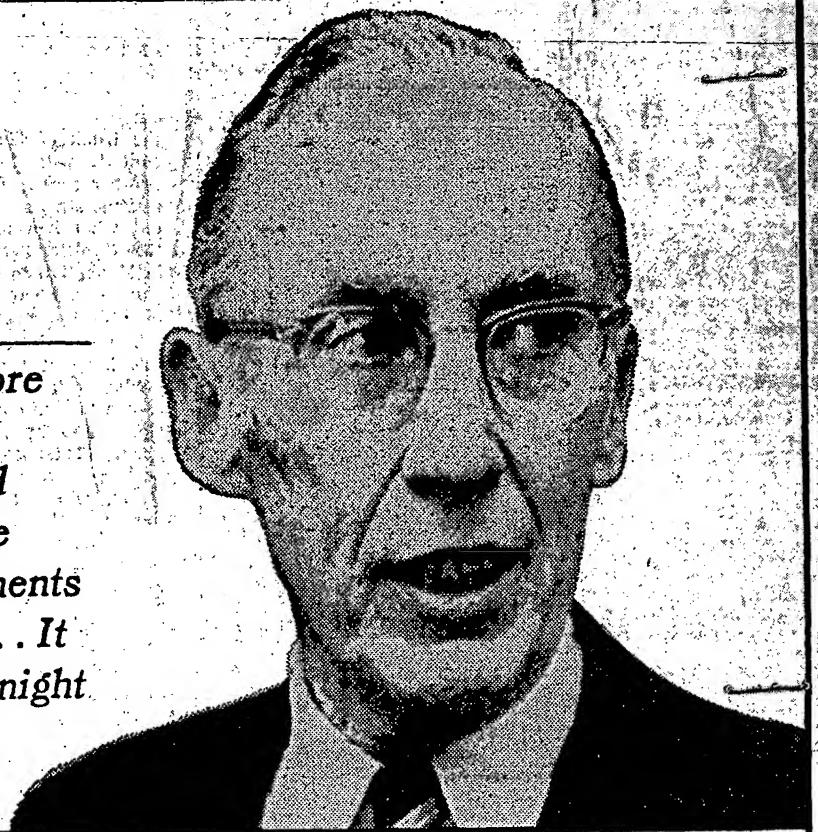
Now that the role of the Supreme Court has expanded and its decisions touch millions of individual lives with far more immediacy than in the past, such easy-going compliance also may be a thing of the past.

FRED G. GRAHAM

**President Nixon  
To the Nation:**

*"There is probably no more important legacy that a President of the United States can leave in these times than his appointments to the Supreme Court . . . It is my firm conviction tonight that Lewis Powell . . .*

*and William Rehnquist . . . will dedicate their lives to the great goal of building respect for law and order and justice throughout this great land of ours."*



Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

UPI-12

## (JUSTICES)

WASHINGTON--WHEN PRESIDENT NIXON'S SUPREME COURT NOMINEES APPEAR BEFORE THE SENATE JUDICIARY COMMITTEE FOR THEIR CONFIRMATION HEARING, FIVE SENATORS PROBABLY WILL KNOW MORE ABOUT THEIR BACKGROUNDS THAN THEY THEMSELVES CAN REMEMBER.

LEWIS POWELL AND WILLIAM REHNQUIST ARE UNDERGOING POSSIBLY THE MOST EXHAUSTIVE BUT UNOFFICIAL INVESTIGATION EVER MADE OF SUPREME COURT NOMINEES.

MANY A DOZEN ORGANIZATIONS, AS WELL AS THE STAFFS OF FIVE SENATORS ARE COMBING THE RECORDS OF REHNQUIST AND POWELL. IRONICALLY, THE DECISION TO MOUNT SUCH AN INVESTIGATION WAS MADE BEFORE THE TWO EVEN WERE NOMINATED LAST THURSDAY.

AT THAT TIME, IT WAS WIDELY BELIEVED THE PRESIDENT WOULD NOMINATE HERSCHEL FRIDAY AND JUDGE MILDRED LILLIE.

SEN. BIRCH BATH, D-IND., WHO LED SUCCESSFUL SENATE FIGHTS AGAINST TWO PREVIOUS NIXON SUPREME COURT NOMINATIONS, CALLED A MEETING FOR LAST FRIDAY.

## ATTENDING

77-12198-1A  
NOT RECORDED

DEC 16 1971

## FOR LAST FRIDAY.

ATTENDING WERE REPRESENTATIVES OF AMERICANS FOR DEMOCRATIC ACTION, THE AFL-CIO, THE ANTI-DEFAMATION LEAGUE, THE CIVIL RIGHTS LEADERSHIP CONFERENCE, THE UNITED AUTOMOBILE WORKERS, AND THE INTERNATIONAL LADIES GARMENT WORKERS UNION. IN ADDITION, REPRESENTATIVES OF TWO WOMEN'S ORGANIZATIONS ATTENDED.

STAFF MEMBERS FROM THE OFFICES OF BATH AND SEN. EDWARD KENNEDY, D-MASS., PHILIP HART, D-MICH.; QUENTIN BURDICK, D-N.D., AND JOHN TUNNEY, D-CALIF., ALSO ATTENDED. ALL ARE MEMBERS OF THE JUDICIARY COMMITTEE.

THE GROUP DECIDED THAT SINCE THEY ALREADY HAD ASSEMBLED AND HAD MADE PRELIMINARY PLANS TO INVESTIGATE JUDGE LILLIE AND FRIDAY, THEY MIGHT AS WELL TURN THE INQUIRY TO POWELL AND REHNQUIST.

P. S. MOSE JR., CHIEF COUNSEL OF THE SENATE CONSTITUTIONAL AMENDMENTS SUBCOMMITTEE, OF WHICH BATH IS CHAIRMAN, WAS NAMED COORDINATOR OF THE INVESTIGATION.

10/26-46908A

1388 WASHINGTON CAPITAL NEWS SERVICE

59DEC17 1971

615/

(Mount Clipping in Space Below)

## Powell Meets Senators, Finds Them Friendly

By CHARLES McDOWELL JR.

Times-Dispatch

Washington Correspondent

WASHINGTON—Lewis F. Powell Jr., President Nixon's Virginia nominee for the Supreme Court, visited the Senate informally Wednesday and found the members friendly.

His hosts, Harry F. Byrd Jr. and William B. Spong Jr., Virginia's Democratic senators, were more confident than ever of the Richmond lawyer's prospects for confirmation after the reception he received from 35 or more senators who met him.

Beyond those clubby pleasantries, the consensus here was that Powell stands a good

chance of being confirmed without a dissenting vote.

The Judiciary Committee scheduled a hearing for Wednesday on the nominations of Powell and William Rehnquist, an assistant attorney general. Both will testify.

### Rehnquist Worry

Several senators who were instrumental in the rejection of two earlier Nixon nominees—Clement F. Haynsworth Jr. of South Carolina and G. Harrold Carswell of Florida—were expected to concentrate their sharpest questioning on Rehnquist, an Arizonan.

Rehnquist's record of hard-line statements on law and order issues will be examined intensively in the light of some senators' views on constitutional guarantees of individual liberties. So far, the skepticism about Rehnquist has not taken the form of outright opposition by any senator, and his eventual confirmation is not much in doubt.

Powell, too, has taken strong positions on the uses of police power, but his record does not seem to have created the same kind of skepticism among liberal senators.

Over the weekend, Powell wrote a three-page letter to Sen. Birch Bayh, D-Ind., enclosing copies of two speeches he had made on organized crime and an article he had written for The Times-Dispatch on the question of "repression" in the United States.

Powell said in the letter that Atty. Gen. John N. Mitchell's office had requested that he provide the copies to Bayh. Both speeches and the article dealt in part with electronic

Continued on Page 4, Col 7.

Mr. Tolson	
Mr. Felt	
Mr. Rosen	
Mr. Mohr	
Mr. Bishop	
Mr. Miller, ES	
Mr. Callahan	
Mr. Casper	
Mr. Conrad	
Mr. Foy	
Mr. Cleveland	
Mr. Pender	
Mr. Bates	
Mr. Tavel	
Mr. Walters	
Mr. Sayers	
Tele. Room	
Miss Holmes	
Miss Gandy	

(Indicate paper, date, newspaper, city and state.)

PAGE A-1,4

b6  
b7c

RICHMOND TIMES - DISPATCH  
RICHMOND, VA.

Date: 10-28-71

Edition:

Author:

Editor: JOHN E. LEARD

Title:

Character:

or

Classification: 77-11979  
Submitting Office: RICHMOND Being Investigated

77-121928-A

SOP EX-1000  
DEC 16 1971

59 DEC 17 1971

# Powell's Reception In Senate Friendly

*Continued from First Page*

surveillance, in which Powell noted Bayh has a special interest.

Bayh led the Senate opposition to Haynsworth and Carswell. Powell's letter to him began, "Dear Birch." They became friendly while working together several years ago on the constitutional amendment on presidential disability and succession, Bayh representing the judiciary subcommittee on constitutional amendments, and Powell the American Bar Association of which he was president.

Powell said in the letter that he endorsed electronic surveillance "under carefully prescribed safeguards," including specific court authorization, in criminal cases. He also endorsed outlawing "all private and unauthorized surveillance."

Powell also mentioned "national security cases involving foreign espionage," in which the use of electronic surveillance is taken for granted, and "internal subversion" cases, in which the same electronic techniques are controversial.

He said his "general judgment" was that "it is now extremely difficult to distinguish between foreign and domestic threats to our democratic institutions."

If that implied that Powell was inclined to allow the tapping of telephones, for example, in investigating the "domestic threat" posed by a militant New Left organization, the answers would have to await the questions at the hearing.

Even then Powell might not give detailed answers. He said in his letter to Bayh:

"What the precise and best answer to this perplexing problem should be, I cannot say at this time...I have always been a strong supporter of the First Amendment freedoms of speech and press, and it is clear to me that those rights must also be zealously protected. Perhaps it would be inappropriate for me to go beyond what I have already said in view of the probability that these and related issues will come before the court."

Meanwhile, Spong prepared a letter, for mailing to all senators today inviting them to

come to him with questions about his friend Powell. Spong's long personal investigations in the Haynsworth and Carswell cases—he voted for Haynsworth and against Carswell—have increased his influence among senators who might be skeptical of a Southern conservative.

Byrd and Spong took turns Wednesday introducing Powell to their colleagues. Byrd particularly, hustled the slim, calm Powell down the corridors from committee rooms to offices to the inner rooms around the Senate chamber.



AP Wirephoto

**Supreme Court Nominee Lewis F. Powell Jr. Visited Capital Yesterday**

**One of His Hosts Was Virginia Sen. Harry F. Byrd Jr.**

(Mount Clipping in Space Below)

Mr. Tolson  
 Mr. Felt  
 Mr. Rosen  
 Mr. Mohr  
 Mr. Bishop  
 Mr. Miller, ES  
 Mr. Callahan  
 Mr. Casper  
 Mr. Conrad  
 Mr. Drury  
 Mr. Cleveland  
 Mr. Ponder  
 Mr. Bates  
 Mr. Tavel  
 Mr. Walters  
 Mr. Sayars  
 Tele. Room  
 Miss Holmes  
 Miss Gandy

## Powell Lists Stock Holdings

Lewis F. Powell Jr. is a director of six companies that operate in Virginia, and the Richmond lawyer was listed in 1971 proxy statements as owning common stock in the corporations with a present value of approximately \$450,000.

The companies and Powell's listed holdings according to the proxy statements are: Ethyl Corp., 8200 shares; Commonwealth Natural Gas Corp., 4175 shares; Philip Morris, Inc., 1,600 shares; United Virginia Bankshares, Inc., 1230 shares; Richmond Corp., 506 shares; Garfinckel, Brooks Brothers, Miller & Rhoads, Inc., 600 shares.

Powell said in a New York Times news interview published Monday that if confirmed for the Supreme Court, he would either place his stock holdings in trust or remove himself from consideration of legal issues involving industries in which he has a financial interest. Powell was quoted as saying he would resign from "all boards that have commercial implications."

(Indicate page, name of newspaper)

PAGE A-4

b6/b7c

RICHMOND TIMES - DISPATCH  
 RICHMOND, VA.

Date: 10-28-71

Edition:

Author:

Editor: JOHN E. LEARD

Title:

Character:

or

Classification: 77-11979

Submitting Office: RICHMOND

 Being Investigated

77-121928-1

DEC 16 1971

59 DEC 17 1971

# Powell Backs Regulated

Virginia attorney Lewis F. Powell Jr., nominated to the Supreme Court, said in a letter released yesterday that carefully regulated wiretapping was essential in the fight against organized crime.

Powell wrote Sen. Birch Bayh (D-Ind.) that as a member of the national crime commission he became convinced

of the need for legislation to outlaw all private, unauthorized surveillance and to allow, under carefully prescribed safeguards, court-ordered surveillance in specified criminal cases.

"It is essential both to protect the public against unauthorized wiretaps and bugging

better opportunity to combat the scourge of organized crime—a type of crime which preys primarily upon the ignorant, the afflicted and the impoverished," Powell said.

Public confirmation hearings on the nominations of Powell and Assistant General William H. Rehnquist will begin in the Senate next

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, E.S.	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

## Wiretapping to Fight

Wednesday.

Sen. Harry F. Byrd Jr. (Ind.-Va.) escorted Powell around Capitol Hill yesterday. Powell is making customary courtesy calls on members of the Senate Judiciary Committee and other senators in advance of the confirmation hearing.

Rehnquist has similar ap-

pointments with members of interest in the subject of electronic surveillance."

In a "Dear Birch" letter, Powell said Attorney General John N. Mitchell had asked him to provide copies of speeches and articles he had made in recent years.

He sent copies of two speeches and one article to Bayh "in view of your special

On the question of wiretapping in cases of national security and internal subversion, Powell said he has not made a full analysis.

But he said he had expressed his general judgment, in a talk to the Richmond, Va., Bar Association and in an arti-

THE WASHINGTON POST Thursday, Oct. 28, 1971

A 5

## Organized Crime

icle for the Richmond Times-Dispatch, "that it is now extremely difficult to distinguish between foreign and domestic threats to our democratic institutions.

"What the precise and best answer to this perplexing problem should be, I cannot say at this time. At the same time, I have always been a

strong supporter of the First Amendment freedoms of speech and press, and it is clear to me that those rights must also be zealously guarded."

Powell said it would be inappropriate for him to expand on his views "in view of the probability that these and related issues will come before the court."

the Washington Post  
Times Herald

The Washington Daily News \_\_\_\_\_  
The Evening Star (Washington) \_\_\_\_\_  
The Sunday Star (Washington) \_\_\_\_\_  
Daily News (New York) \_\_\_\_\_  
Sunday News (New York) \_\_\_\_\_  
New York Post \_\_\_\_\_  
The New York Times \_\_\_\_\_  
The Daily World \_\_\_\_\_  
The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

Date 10/28/71

77-121928-A  
NOT RECORDED  
DEC 16 1971

59DEC17 1971

# Powell Now Holds \$452,732 In Stocks, SEC Data Shows

By DICK BARNES  
Associated Press

Supreme Court nominee Lewis F. Powell Jr. holds stock worth nearly a half-million dollars in six corporations of which he is a director.

Three of these corporations paid Powell's law firm nearly \$400,000 in legal fees during 1970.

This material, compiled from corporate proxy statements filed with the Securities and Exchange Commission, illustrates the financial stature of Powell, a 64-year-old lawyer from Richmond, Va.

Powell will soon be submitting his own detailed financial statement to the Senate Judiciary Committee, which will conduct confirmation hearings for him and William H. Rehnquist, nominated for the Supreme Court last week by President Nixon.

Powell has indicated he would put his holdings into a blind trust or take whatever other action the committee might require. He said in a newspaper interview that he would do "whatever is necessary and proper" to eliminate potential conflicts of interest and resign directorships with commercial connections.

Based on midweek stock prices, the six holdings in corporations of which he is director were worth \$452,732. The largest was 8,200 shares worth \$181,425 in the Ethyl Corp., the Richmond-based principal supplier of the controversial lead-based additive used in some gasolines.

Powell holds 4,175 shares worth \$101,244 in Commonwealth Natural Gas and 1,600 shares worth \$97,600 in Philip Morris, the cigarette manufacturer.

Lesser holdings include 1,230 shares worth \$35,655 in United Virginia Bankshares, a bank holding company; 506 shares worth \$3,988 in the Richmond Corp., parent of two insurance firms, and 600 shares worth \$13,500 in Garfinkel, Brooks Bros., Miller and Rhoads, retail clothiers.

During 1970, Ethyl Corp. paid Powell's law firm — Hunton, Williams, Gay, Powell and Gibbons — \$17,900. United Virginia Bankshares paid \$145,252, and Richmond Corp. paid \$105,950.

The other three listed no payments to the firm.

The law firm lists 41 major corporate clients on its entry in the principal legal professional directory.

Powell also is a director of the Chesapeake & Potomac Telephone Co. of Virginia, a wholly owned subsidiary of American Telephone & Telegraph Co.; of Lawyers Title Insurance Co., a subsidiary of the Richmond Corp., and of State Planters Bank of Richmond, owned by United Virginia Bankshares. No stockholdings are listed with these directorships.

The home in which Powell and his wife live is valued by the Richmond Tax Assessor at \$90,000. A portion of the title to this property remains in the name of Mrs. Powell's widowed mother. A smaller adjacent lot taxed in her name is valued at \$10,000. No other Richmond property is listed in Powell's name.

Two years ago, Powell's father and some 30 other family members sold their privately held furniture manufacturing firm, David M. Lea and Co., to Sperry and Hutchinson in exchange for 159,981 shares of stock. That stock at midweek was worth \$8,079,278. There is no public breakdown of how much went to each family member.

Tolson	_____
Felt	_____
Rosen	_____
Mohr	<i>✓</i>
Bishop	<i>✓</i>
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Woolland	<i>✓</i>
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

*Nelson*

b6  
b7c

The Washington Post Times Herald \_\_\_\_\_  
 The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) *b7* \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

OCT 29 1971

Date \_\_\_\_\_

*77-101928-A*  
 207 P.M.  
 Oct 29 1971

59 DEC 17 1971  
 JES

# Court Nominee Powell Holds Stocks Worth Half a Million

By Dick Barnes  
Associated Press

Supreme Court nominee Lewis F. Powell Jr. holds stock worth nearly a half million dollars in six corporations of which he is a director.

Three of these corporations paid Powell's law firm nearly \$400,000 in legal fees during 1970.

This material, compiled from corporate proxy statements filed with the Securities and Exchange Commission, illustrates the financial stature of Powell, a 64-year-old lawyer from Richmond, Va.

Powell will soon be submitting his own detailed financial statement to the Senate Judiciary Committee, which will conduct confirmation hearings for him and William H. Rehnquist, both of whom were nominated last Thursday by President Nixon.

He has indicated he would put his holdings into a blind trust or take whatever other action is necessary to eliminate potential conflicts of interest and resign directorships with commercial connections.

[It is common practice for lawyers to serve as directors of client firms and there is no prohibition against ownership of a client's stock in the American Bar Association's code of professional responsibility,

which is the ethical canon for lawyers and binding on ABA members and the Virginia bar.]

Based on midweek stock prices, the six holdings in corporations of which he is a director were worth \$452,732. The largest segment was 8,200 shares worth \$181,425 in the Ethyl Corp., a Richmond-based firm which is the principal lead-based additive used in some gasolines.

Powell holds 4,175 shares worth \$101,244 in Commonwealth Natural Gas and 1,600 shares worth \$97,600 in Philip Morris, the cigarette manufacturer.

Lesser holdings include 1,230 shares worth \$35,055 in United Virginia Bankshares, a bank holding company; 506 shares worth \$23,908 in the Richmond Corp., parent of two

insurance firms, and 600 shares worth \$13,500 in Garfinkel, Brooks Bros., Miller and Rhoads, retail clothiers.

During 1970, Ethyl Corp. paid Powell's law firm — Huston, Williams, Gay, Powell and Gibson — \$147,390. United Virginia Bankshares paid \$145,352 and Richmond Corp. paid \$105,950. The other three listed no payments to the bar.]

The firm lists 41 major corporate clients.

Powell also is a director of the Chesapeake & Potomac Telephone Co. of Virginia, a wholly owned subsidiary of American Telephone & Telewholly owned subsidiary of Lawyers Title Insurance Co., a subsidiary of the Richmond Corp., and State Planters

Bank of Richmond, owned by United Virginia Bankshares.

No stockholdings are listed with these directorships.

The old family home in Lesser holdings include which Powell and his wife live 1,230 shares worth \$35,055 in is valued by the Richmond tax assessor at \$90,000. A portion of the title to this property remains in the name of Mrs. Powell's widowed mother.

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, E.S.	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Candy	_____

b6/b7C

The Washington Post Times Herald \_\_\_\_\_  
 The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

Date 10/29/71

37-1212-8-A  
 NOT FOR REBROADCAST  
 DEC 16 1971

59 DEC 17 1971

RECEIVED  
1/1/78

## POWELL'S STOCKS PUT AT \$1-MILLION

Report Shows He Is Among  
Richest Court Nominees

By FRED P. GRAHAM  
Special to The New York Times

WASHINGTON, Oct. 29—The Senate Judiciary Committee released today a financial report showing that Lewis F. Powell Jr., one of President Nixon's nominees for the Supreme Court, owns shares valued at more than \$1-million in 30 corporations.

The financial report, made by Mr. Powell to the committee at the request of five Democratic members, indicated he was one of the wealthiest men ever nominated to the Supreme Court.

It was also reported that Mr. Nixon's other nominee, William H. Rehnquist, has a net worth of \$77,050, including his home and personal belongings and a few pieces of real estate, but no shares of stock.

Mr. Powell, his wife and 19-year-old son, Lewis F. Powell 3d, together own shares in 38 corporations.

Mr. Powell has said repeatedly that he will do "whatever is necessary and proper" to separate himself from holdings that might constitute potential conflicts of interests. Recent developments in standards of judicial ethics indicate that he will come under heavy pressure to sell some or all of his stocks, which could cost him thousands of dollars in capital gains taxes.

Under a new set of ethical canons, judges are required to disqualify themselves from any case involving a company in which the judges or any member of their families own shares. The canons grew out of the controversies over former Justice Abe Fortas and Clement F. Haynsworth Jr., whose Supreme Court nomination was rejected after his ethics were challenged.

The new canons, which are expected to be adopted by the American Bar Association next summer, require judges to sell any shares that "might require frequent disqualification." The canons pointedly note that mutual funds and government bonds pose no ethical problems for judges.

Mr. Powell, a Richmond lawyer, is said to be considering placing his stocks in a "blind" trust, designed to prevent him from knowing which stocks he owns.

However, some experts on judicial ethics say that blind trusts would pose ethical problems. E. Wayne Thode, a professor at the Utah College of Law who is helping a special A.B.A. committee draft the new ethical canons, said in an interview that "a blind trust wouldn't be an answer to a Justice's problems."

He said that a Justice was required by the new ethical rule to know where his money is invested, and to avoid taking part in cases in which he has an interest. Many people would not believe that a Justice with a blind trust did not really know how his money was invested, Professor Thode said.

Although the new ethical rules will not be automatically binding upon the Supreme Court Justice Potter Stewart has been a member of the committee that is drafting them, and the lower Federal judiciary, at least, is expected to adopt them.

### Top Concerns on List

The list released today disclosed that Mr. Powell's holdings include stocks in the American Telephone & Telegraph Company, the Eastman Kodak Company, the General Electric Company, International Business Machines, Philip Morris, Inc. and the Xerox Corporation.

An example of how he could be pinched financially by selling his shares can be seen in his ownership of \$321,556 worth of shares in Sperry & Hutchinson, Inc., which operates the S & H Green stamp enterprise. It was before the Supreme Court as recently as last year.

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_

b6  
b7c



The Washington Post Times Herald \_\_\_\_\_  
The Washington Daily News \_\_\_\_\_  
The Evening Star (Washington) \_\_\_\_\_  
The Sunday Star (Washington) \_\_\_\_\_  
Daily News (New York) \_\_\_\_\_  
Sunday News (New York) \_\_\_\_\_  
New York Post \_\_\_\_\_  
The New York Times / \_\_\_\_\_  
The Daily World \_\_\_\_\_  
The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

Date OCT 30 1971

59DEC17 1971

77-121938-6  
FBI BOSTON  
100 DEC 10 1971

Mr. Powell's ownership of the S & H shares goes back to a family business that was acquired years ago by the S & H Company. The listed value of the stock has increased enormously since Mr. Powell's father first obtained it, so that much of the \$321,556 would be subject to capital gains tax. Since the nominee appears to be in the highest tax bracket, he would have to pay 35 percent on this amount in taxes.

Mr. Powell, a 64-year-old for-

been mentioned prominently for years as a potential Supreme Court nominee.

He had asked the Nixon Administration not to consider him for a previous vacancy two years ago on the ground that he was too old. However, he said yes when Mr. Nixon, under criticism over his other potential nominees, asked Mr. Powell two weeks ago to accept the nomination.

Today the Americans for Democratic Action announced that it would oppose confirmation of Mr. Rehnquist, on the ground that he has "neither the respect for minority aspirations nor the devotion to the Bill of Rights which should be the hallmark of a Supreme Court Justice."

Mr. Rehnquist is an Assistant Attorney General who has taken strong law-and-order positions on such issues as wiretapping, mass arrests of demonstrators and surveillance of suspected subversives. The A.D.A. said in a statement that his record "is in opposition to the great advances of recent years in civil rights and civil liberties."



The New York Times/Bob Jones

DISCLOSES STOCK HOLDINGS: Lewis F. Powell Jr., one of the President's nominees for the Supreme Court, at home with his wife, Mr. and Mrs. Powell and their 19-year-old son together own shares in 38 corporations.

# Stock Seen Problem For Powell

By John P. MacKenzie  
Washington Post Staff Writer

NEW YORK, Oct. 30 — Members of an American Bar Association ethics committee expressed doubt today that Supreme Court nominee Lewis F. Powell Jr. can cure all potential conflict-of-interest problems by putting his estimated \$1 million worth of stock holdings in a "blind trust."

The only alternative for Powell, the prosperous Richmond attorney who has been nominated to replace the late Justice Hugo L. Black, may be to sell at a sacrifice some stocks which would otherwise cause his disqualification in major cases, the ethics committee members said.

Powell, who faces a Senate confirmation hearing on Wednesday, is known to favor the blind trust idea as a way to conserve his assets without causing him to sit out key cases involving the financial welfare of companies in which he holds an interest. He has offered to take any other steps required by judicial ethics.

Opinions about Powell's financial problems were expressed privately here by members of a blue-ribbon ABA committee which is conducting a three-year study to revise the code of conduct for judges which dates back to 1924.

The committee was formed in the wake of the 1969 resignation of Justice Abe Fortas amid questions about his outside income. It has published tentative new rules based partly on the controversy that led to Senate rejection of Clement F. Haynsworth Jr. as Fortas's successor.

Retired California Chief Justice Roger J. Traynor said the committee could re-examine the blind trust question in executive session after hearing judges and lawyers in public session today. Traynor is chairman of the committee, which includes Supreme Court Justice Potter Stewart and other prominent figures in the law.

U.S. Presidents and Cabinet members have used various methods to insulate large business interests from their decision-making, but the pure blind trust — in which the public official is totally unaware of what an independent trustee is doing with his stock portfolio — is considered rare. In any event, some ethics members said today between committee sessions, current federal law requires judges and justices to disqualify themselves in any case in which they have a "substantial interest." They noted that a judge could violate the law without knowing it but the law implies that a judge must make it his business to know what stock he owns.

Existing ethical canons require judges to abstain from investments in "enterprises which are apt to become involved in litigation in the court." The 1924 rules, carried forward in the proposed new code, require a new judge to retain such holdings no longer than necessary "to dispose of them without serious loss."

On Friday the Senate Judiciary Committee released a list of Powell's stockholdings in 30 corporations. The forced sale of some of these securities could produce large capital gains taxes because of great increases in the value of the stock over the years.

In tentative drafts the committee has proposed that any stock interest in a company, not merely the "substantial interest" stated in federal law, should automatically disqualify a judge from a case involving that company.

Although some witnesses have told the ABA the rule would be too strict, a committee majority has taken the position that the new rule would minimize side battles over a judge's income and in the long run would require less public disclosure by the judge of his private income.

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen *(initials)*  
 Mohr \_\_\_\_\_  
 Bishop *(initials)*  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland *(initials)*  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

*b6 b7c*

Some committee members indicated that they had considered the blind trust method incompatible with federal law and thus beyond the committee's scope of investigation. One member said the committee could recommend that Congress, which also is studying the problem, change the law to allow for a blind trusteeship.

The Washington Post *A - 5*  
 Times Herald \_\_\_\_\_  
 The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

OCT 31 1971  
 Date *File*

74-6219-8-1  
 207 RECORDED  
 DEC 16 1971

59 DEC 17 1971

(Mount Clipping in Space Below)

# S.C. Federal Justice: Powell Scholar, Hard Worker

BY GINNY CARROLL  
Staff Writer

South Carolina's chief federal judge remembers Supreme Court nominee Lewis Powell as a scholar among law students and yet the kind of guy who would get out on the field as a football manager and sweat with the team.

U.S. District Judge J. Robert Martin Jr. of Greenville was Powell's classmate for seven years at Washington and Lee in undergraduate and law schools.

Also in that class of '31 was Chief Judge Walter E. Hoffman of the Eastern Federal District of Virginia.

The three sat in a triangle throughout law school in their graduating class of 21 men.

"Lewis Powell was probably the best student I ran into while in law school," Martin said in an interview. "He is the student type . . . strictly a student."

However, Martin said, he knew Powell first when he was playing first string for the W&L

football team. Powell was the team manager.

"To get that job, you have to work. You have to get out there and work like a plowhand," Martin said. "It was worse then than it is today. It was the dirtiest, nastiest job . . ."

As far as the Supreme Court nomination, Martin says he has no reservations. Powell is qualified — "A-number-one."

"He has all the necessary qualifications," the judge said, "background, education and ex-

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Harvey	_____
Mr. Cleveland	_____
Mr. Pander	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Sayars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

(Indicate page, name of newspaper, city and state)

10

The State

Columbia, S.C.

Date: 10-31-71

Edition:

Author: Ginny Carroll

Editor:

Title:

b6 b7C

Character:

or

Classification:

Submitting Office: Columbia

 Being Investigated

72-12172-B-8  
FBI - COLUMBIA  
DEC 16 1971

59 DEC 17 1971

100

Lester G.  
Lester G.

perience to make a Supreme Court justice."

Agreeing with President Nixon and most of Powell's observers, Martin said he considers Powell a strict constructionist on the Constitution.

What does that mean to Martin?

"It means that he doesn't feel the Constitution should be amended by judicial decision but in a manner provided by the Constitution. It means that the Constitution means what it

says and doesn't mean something you imagine."

Conservative, yes, "but not conservative to the extent he is not progressive."

"He would be one who probably in retrospect after he is off the court will be classified as a top judge," Martin said.

"He's no cull."

"They can't question his qualifications."

Most observers agree with that assessment. So far, there has been almost no speculation that Powell might run into the

same trouble as Greenville's Clement F. Haynsworth or Florida's G. Harrold Carswell in seeking Senate confirmation.

If there is to be a battle, this time, Supreme Court watchers agree, it will probably be over William H. Rehnquist, Nixon's second nominee. Rehnquist has been outspoken on several law and order issues, including the massive arrests of May Day demonstrators in Washington this year. His statements could give him some trouble with Senate liberals.

Powell, however, immediately drew backing from conservatives and civil libertarians when he was nominated.

The man who graduated first in his class in undergrad Washington and Lee years has been a prominent Richmond lawyer for 34 years.

He is a past president of the American Bar Association, American College of Trial Lawyers and American Bar Foundation.

He has a masters degree in law from Harvard.

When most of the South was

still reeling and warring at the Supreme Court's early desegregation decisions, Powell was a chairman of the Richmond school board. Standing out against obstructionist policies, he presided over the peaceful integration of the city's schools in 1959.

His interests have always been wide ranging. While at Washington & Lee, Martin recalled, he was president of the student body, active on the newspaper and yearbook along with his football team work.

"Even with all his acclaim, even in school, he never lost the touch," Martin said.

"He knew everybody on campus by their first name.

"He would have made a wonderful politician."

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

## Nominee to High Court Has Big Holding in Firm With Case Before Panel

Senate Unit's Report Shows That  
Powell Is Millionaire, Has 8,462  
Sperry & Hutchinson Shares

WASHINGTON (AP) — Supreme Court nominee Lewis F. Powell Jr. is a millionaire and owns more than \$300,000 of stock in a company that has a case pending before the high court, according to a Senate committee report.

Holdings of the Richmond, Va., lawyer, and those of President Nixon's other nominee, Assistant Attorney General William H. Rehnquist, were disclosed by the Senate Judiciary Committee. Mr. Rehnquist's net assets were put at \$77,050 in a statement submitted by the Justice Department.

Mr. Powell's holdings include 30 common stocks, among them such major concerns as International Business Machines Corp., Xerox Corp., Merck & Co. and American Telephone & Telegraph Co., plus bonds and real estate. The holdings are valued at well over \$1 million at current market prices.

The largest single stockholding was 8,462 shares of Sperry & Hutchinson Co. A major pending Supreme Court case pits the Federal Trade Commission against S&H in a dispute over the company's regulation of its trading stamps. Mr. Powell presumably would have to disqualify himself from the case.

Mr. Powell has said he would do "whatever is necessary and proper" to eliminate potential conflicts of interest. He indicated this could include putting the stock in a blind trust and resigning directorships with commercial connections. The Virginia lawyer listed 190 companies for which his law firm did principal work during the year ended March 31 and said he was a director of 11 companies, most of which he owns stock in.

Mr. Rehnquist's holdings include a net equity of \$24,900 in his McLean, Va., home; a 60-acre farm near Cedaredge, Colo., and about \$13,000 of land in Arizona. The Justice Department statement said his personal property was valued at \$12,000.

Mr. Rehnquist's wife was listed as having acquired several securities from the estate of her father who died in 1962, most of them mutual fund shares.

The Washington Post  
Times Herald \_\_\_\_\_  
 The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

**NOV 1 1971**

Date \_\_\_\_\_

**59DEC17 1971**

77-12122-8-A  
 NOT RECORDED  
 DEC 16 1971

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

## ABA Tells of Role In Court Choices

By John P. MacKenzie  
 Washington Post Staff Writer

Attorney General John N. Mitchell offered a Supreme Court nomination to Richmond attorney Lewis F. Powell Jr. before the American Bar Association found the administration's two top candidates unqualified, a special ABA report disclosed yesterday.

The offer to Powell, which was quickly followed up with a personal plea from President Nixon, came on Oct. 19, two days before the President announced his choice of Powell and William H. Rehnquist on national television, the report said.

By the time Powell was urged to accept the nomination, the report said, the ABA had indicated to Mitchell that the administration's top choices, Herschel H. Friday and Mildred L. Lillie, probably would not receive ABA endorsement.

These disclosures, shedding additional light on the process that led to the Powell and Rehnquist nominations, came in a 27-page memorandum from the ABA's 12-member judiciary committee to the 281 members of the ABA's policy-making House of Delegates.

The purpose of the report was to give the ABA's side of the dealings between the committee and the Justice Department over screening of candidates for the two vacancies. Mitchell broke off relations with the ABA committee on Oct. 21, saying that confidential consultation with the bar had proved impossible. The department has continued its reliance on the ABA in

The Washington Post Times Herald A-1  
 The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

Date 11-2-71

77-121928-A  
 100-1000000  
 DEC 16 1971

59 DEC 01 1971

## Powell: Subdued but Effective

By John P. MacKenzie

*Washington Post Staff Writer*

"We all have our private arsenals," said the president of the American Bar Association, Lewis F. Powell Jr. "I have three shotguns, two rifles and two pistols and I have been trying to hit birds since I was a little boy."

Powell was addressing the ABA's legislature, the House of Delegates, on the only major crime issue on the agenda of the bar association's 1965 convention at Miami Beach. In retrospect,

Powell then was displaying some of the qualities that seem certain to win him confirmation as a justice of the Supreme Court with scant opposition.

The subject was federal gun control legislation and whether the ABA would go on record as favoring it. A parade of old-time bar leaders had extolled the virtues of self-reliance and the constitutional right to bear arms.

"In all seriousness," Powell told the delegates, "this bill is a moderate and rational approach to an admittedly difficult problem. It will give enforcement officers a strong hand in the war on crime."

Powell and other bar officials showed under the old-timers and the legislation was endorsed by a lopsided voice vote. Smoothly and in the most subdued and modulated tones, Powell had talked to his colleagues of the bar in a way they could understand.

This is the nominee who from all accounts did not agree at first with President Nixon that the Supreme Court is "the fastest track" for a lawyer. For him the private practice of law was the fastest track but taking an exposed position was not the best way of running on it.

59 DEC 17 1971

Regulation of firearms sounded hard on sportsmen, but Powell could make it sound like one of the most effective crime-fighting measures. Federal funding to help the poor get legal services sounded socialistic, but Powell could package it as the salvation of the legal profession and its tattered public-be-damned image.

### Skillful Politician

Never a candidate for public office—his Richmond law firm would permit only the appointive public service of city and state school boards—he has been rated one of the ablest politicians in Virginia.

Apparently a consistent advocate of keeping the public schools open in the Old Dominion, he nevertheless maintained close ties to the ruling Byrd political family without embracing their massive resistance to desegregation.

For all his reputed moderation in the racial sphere, however, Powell at 64 has begun to speak out more stridently and more colorfully about crime, patriotism and the duties of the legal profession.

Slogans don't usually win lawsuits, but Powell has turned out some fairly shrill rhetoric.

"The radical left—expert in such matters—knows the charge of repression is false. It is a cover for leftist-inspired violence and repression.... The attack has focused on wiretapping. There seems almost to be a conspiracy to confuse the public. The impression studiously cultivated is of massive eavesdropping and snooping by the FBI and law enforcement agencies."

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

b6  
b7c



The Washington Post  
Times Herald

A-1

The Washington Daily News \_\_\_\_\_

The Evening Star (Washington) \_\_\_\_\_

The Sunday Star (Washington) \_\_\_\_\_

Daily News (New York) \_\_\_\_\_

Sunday News (New York) \_\_\_\_\_

New York Post \_\_\_\_\_

The New York Times \_\_\_\_\_

The Daily World \_\_\_\_\_

The New Leader \_\_\_\_\_

The Wall Street Journal \_\_\_\_\_

The National Observer \_\_\_\_\_

People's World \_\_\_\_\_

NOV 3 1971

Date \_\_\_\_\_

10/23/71  
NOT FOR RELEASE  
DEC 13 1971

TOP CLIPPING  
DATED 10/23/71  
BY [unclear] RBT  
FILED FILE AND INITIALED

Reprinted by FBI

These lines, written for the Richmond Times Dispatch, so pleased the FBI that they were reprinted in the October Law Enforcement Bulletin.

Noting, with the abandon of one who did not expect to be on the Supreme Court, that the issue was before the justices this term for a decision, Powell spoke of the needs of government to protect itself by wire tapping. As for "domestic" subversives where the federal power was not so clear, he said "there may have been a time when a valid distinction existed between external and internal threats. But such a distinction is now largely meaningless. The radical left, strongly led and with a growing base of support, is plotting violence and revolution . . ."

The precise legal issue, however, is not how grave the danger may be from either internal revolt or foreign aggression, but whether the electronic search for subversives must have the approval of courts in the form of a warrant. The issue for Powell the justice will be how strictly to construe the Fourth Amendment, which forbids search warrants except on "probable cause" and a law officer's sworn word that such cause exists.

All speeches by bar presidents use words like "balance" and "moderation," because the ABA is a 150,000-member conglomerate of legal specialists with a significant number of liberals as well as conservatives in high positions. This explains some of Powell's frequent calls for a return-swing of the "pendulum" toward the interests of society rather than the criminal. But it does not explain the depth of his opposition to the criminal law decisions of the Warren Court.

In the dissent written by Powell, for himself and other members of the

Johnson's National Crime Commission, Powell opposed not only the Miranda v. Arizona confessions ruling of 1966, but several other Supreme Court decisions, some much less well known.

For example, the court ruled in 1965 that a prosecutor may not comment on the refusal of a defendant to take the witness stand in a state court. Powell said a constitutional amendment should be considered to overcome this ruling.

To many, a prosecutor's comment had been long considered a penalty against the defendant for exercising his right not to be a witness against himself, a dramatic way of prejudicing a jury by insinuating that the defendant has something to hide. Since under the American system the accused isn't supposed to have to prove anything, the prosecutor's taunt smacked more of the European inquisitional system of justice. That is a system Chief Justice Warren E. Burger has admired along with others who think city crime and the "right to silence" don't mix.

Powell's record as a city and state school board leader remains to be fleshed out in Senate hearings beginning today—unless the Judiciary Committee abandons all critical questioning.

Civil rights workers are displeased at the thought of confirming anyone who was even remotely connected with the five-year shutdown of public schools in Prince Edward County. Defeated nominee Clement F. Haynesworth Jr. was ~~recently~~ condemned for pronouncing the school closings perfectly constitutional since they fell with equal weight on both races ~~and rich and poor alike~~.

Board Accused

Nevertheless, the Leadership Conference on Civil Rights decided yesterday to take no stand on Powell while actively opposing Assistant Attorney General William H. Rehnquist. The judgment on Powell seems to be that his role was far from central though the state board of education, which Powell headed, is accused in pending litigation of violating the Constitution

by doing little to desegregate Virginia schools since 1954.

Figures subpoenaed from the state government during the long trial over Richmond's racial education patterns showed that Powell's law firm received \$43,915 from the state and localities for defending desegregation suits.

More than half that amount came from a friend-of-the-court brief filed in last spring's Supreme Court busing cases. It was the first desegregation business since 1960 for the firm, which made a corporate decision to cease civil rights work for the state about that time.



LEWIS F. POWELL JR.

## ABA Reports on Its Court Role

COURT, From A1

helping to fill vacancies on lower courts.

The committee said it regretted that Mitchell was dissatisfied with the short-lived "experiment" of seeking the ABA's judgment on proposed nominees before the attorney general recommended anyone to the President.

In its report the committee denied responsibility for newspaper reports about six persons, including Friday and Mrs. Lillie, whose qualifications were under investigation between Oct. 12 and Oct. 20.

The committee also denied responsibility for a report in The Washington Post Oct. 21 that both Friday and Judge Lillie had been found "not qualified" at a secret meeting the previous day.

Noting that a reporter for The Washington Post had declined to say whether a committee member had been a source for the story, the committee suggested that "an ad-

ministration leak" may have been to blame.

Howard Simons, managing editor of The Washington Post, said last night that the information did not come from the Justice Department or from anyone else in the Nixon administration.

A spokesman for the Justice Department said Mitchell "categorically denied" that anyone in the department divulged the information contained in The Post's story and that "to Mitchell's knowledge, no one in the White House was responsible either."

The committee report said The Post's story was a "substantially accurate" account of the bar group's judgment on Friday and Mrs. Lillie. It confirmed that Mrs. Lillie had been found "not qualified" by an 11-to-1 vote but noted that six committee members found Friday "not qualified" and six others said they were "not opposed" to him.

Under committee rules Friday needed eight votes to win minimal ABA endorsement.

The Post reported that the vote against Friday was 7 to 5.

"If the names of Justice Lillie and Mr. Friday had been withdrawn when the attorney general was informed that it was improbable that either would be given the committee's top rating, the adverse effect of the committee's investigation could have been minimized," the report said.

"It is our hope," the report concluded, "that when the irritation regarding these particular investigations subsides, a modified procedure can once more be considered," by which the ABA could regain its role as a consultant to Mitchell.

The report disclosed numerous behind-the-scenes communications between the committee chairman Lawrence E. Walsh of New York and Mitchell or his deputy, Richard G. Kleindienst.

One key communication was a warning late last month with regard to Rep. Richard H. Poff (R-Va.), then the leading candidate for one of the high court vacancies, that Poff's

"relatively short" experience (four years) in the actual practice of law" was one of the "problems" that had arisen in his case. Poff withdrew as a candidate on Oct. 2 before the ABA committee could take a position on his then-expected nomination.

According to the report, the committee had not yet received any names to investigate when President Nixon told newsmen Oct. 12 that he would announce within a week his choices to replace the late Justice Hugo L. Black and retired Justice John M. Harlan.

After a call from Walsh, Kleindienst provided the names of six persons, but on Oct. 13 Kleindienst said the committee could relax its investigation of all except Friday and Mrs. Lillie, the report said.

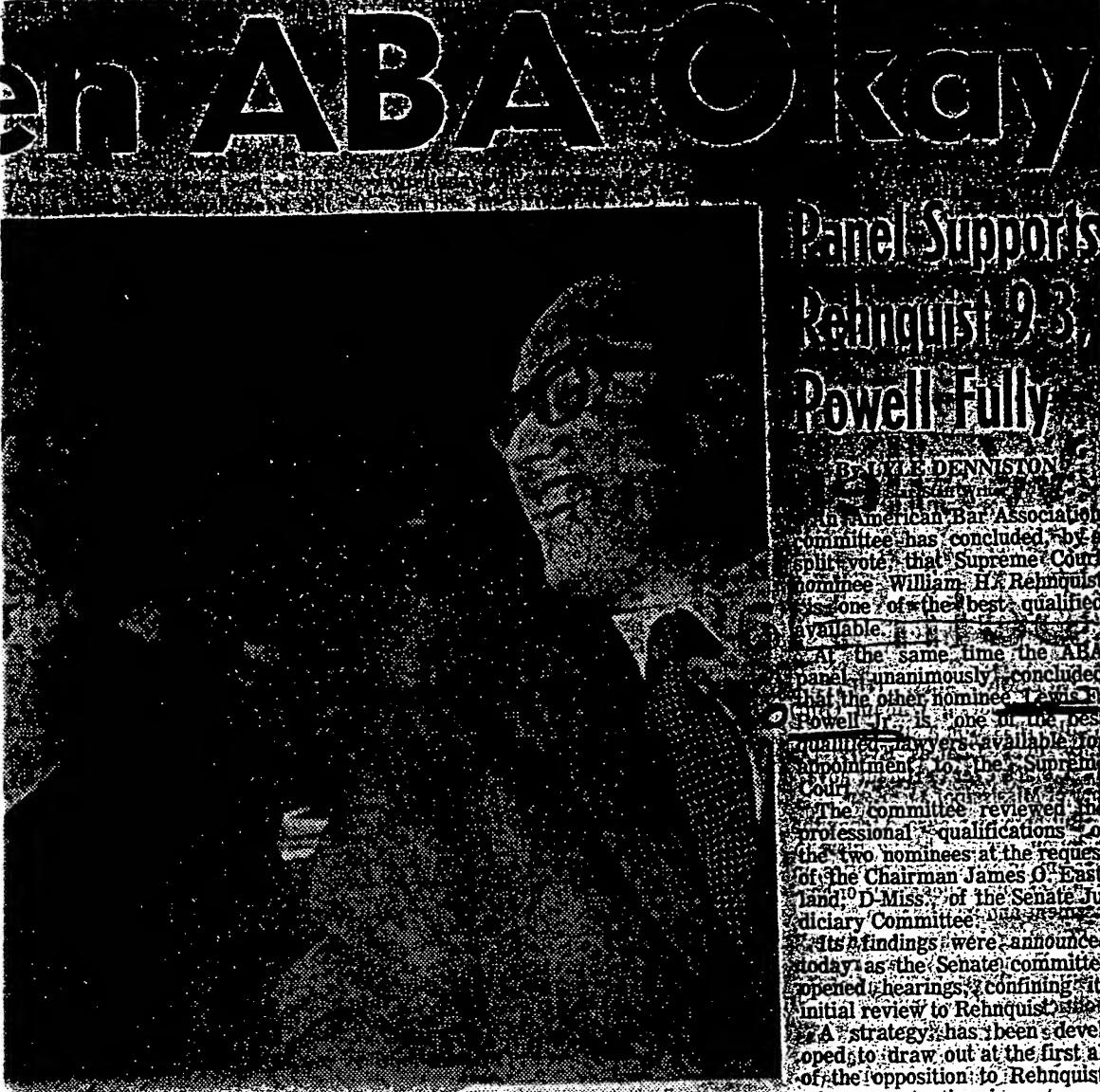
The ABA committee is expected to make its report today on its views of Powell and Rehnquist. The report will go to the Senate Judiciary Committee, which opens confirmation hearings Wednesday.

# Court Choices Given ABA



Arizonaan William H. Rehnquist (right) talks with Sen. Barry M. Goldwater Jr., who accompanied the Supreme Court nominee to his hearing.

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_



William H. Rehnquist (right), talks with Sen. Barry Goldwater, who accompanied the Supreme Court nominee to the Senate.

## Panel Supports Rehnquist '93, Powers Fully

By ROBERT DENNISON

The American Bar Association committee has concluded "by a split vote" that Supreme Court nominee William H. Rehnquist is one of the best qualified available.

At the same time, the ABA panel unanimously concluded that the other nominee, Lewis F. Powell Jr., is "one of the best qualified lawyers available for appointment to the Supreme Court."

The committee reviewed the professional "qualifications" of the two nominees at the request of the Chairman James O'Eastland, D-Miss., of the Senate Judiciary Committee.

Its findings were announced today as the Senate committee opened hearings confirming its initial review to Rehnquist.

A strategy has been developed to draw out at the first all of the opposition to Rehnquist, whose nomination is controversial and to wait until later to confront Powell, whose nomination has drawn no significant opposition.

Rehnquist, 47, is an assistant U.S. attorney general. Powell,

45, is a Richmond lawyer.

**Vote Is 9 to 3**

The ABA's federal judiciary committee split 9 to 3 in deciding that Rehnquist should be given the panel's top rating, that is, a conclusion that he "meets high standards of professional competence, judicial temperament and integrity."

The committee said its 12 members were unanimous in the view that Rehnquist is qualified.

But, it added, "three members believe that his qualifications do not establish his eligibility for the committee's highest ratings, and would, therefore, express their conclusion as not opposed to his confirmation."

In its 12-page report on Rehnquist, the committee stressed that it would not comment on his "ideological and philosophical

The Washington Post Times Herald \_\_\_\_\_  
 The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) A-1 \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

November 3, 1971

filed JG  
 77-121928-1  
 NOT RECORDED

DEC 16 1971

50 DEC 7 1971

The Washington Post  
Times Herald

The Washington Daily News

The Evening Star (Washington)

The Sunday Star (Washington)

Daily News (New York)

Sunday News (New York)

New York Post

The New York Times

The Daily World

The New Leader

The Wall Street Journal

The National Observer

People's World

November 3

filed 9  
77-121  
NOT RECD  
DEC 16 '71

59DEC17 1971

1368

The ABA's 12-page report committee split 4-to-4 in voting that Rehnquist should remain on the panel's top rating. In a conclusion that did not meet the high standards set by the committee, it said the document "was not able to determine whether Rehnquist's political beliefs, if any, were incompatible with the standards of the committee's highest panel, and would therefore support their conclusion as to his confirmation."

Rehnquist's 12-page report to the committee said that it would not comment on his "political, social and philosophical views." Those views were the main reason for liberal opposition to his nomination, he said. The ABA committee said it had contacted 40 judges and lawyers and talked to 10 deans of law schools about Rehnquist. Outside of this home state of Arizona, the committee said, Rehnquist was not well-known. But comments about his professional qualifications were favorable, with only one exception, the panel said.

One unnamed judge was quoted as saying that he had reservations about Rehnquist because

## Rehnquist and Powell Given ABA Approval

Continued From Page A-1  
of an "impression that Mr. Rehnquist had such deep convictions of social and economic problems that he might be unduly and injudiciously influenced by those views in deciding cases.

The committee said it had done its own review of controversial statements Rehnquist had made while in the Justice Department, and concluded that "it did not appear that his defense in those positions was beyond proper limits of professional advocacy."

### Changes View

The committee noted that Rehnquist had opposed a public accommodations law in Arizona before becoming a government official, but "now acknowledges that the successful execution (of the law) convinces him that his position was probably wrong on the merits."

The committee said that it had been informed that a group of labor and civil rights organizations were opposed to Rehnquist, but for reasons beyond the committee's scope of review.

The ABA panel's 8-page report on Powell concluded with the unanimous view that he "meets, in an exceptional degree, high standards of professional competence, judicial temperament and integrity."

The committee said its contacts with 547 lawyers and judges and 87 deans of law schools brought comments that "can only be described as unrestricted enthusiasm for Mr. Powell."

It said the law school faculties it contacted regard him "as moderate, temperate and extremely able — a most promising appointment to the court."

In all of its interviews, the committee said, it heard only two adverse comments about Powell — an "active civil rights lawyer" who criticized Powell for being conservative and another lawyer who criticized Powell's law firm for not employing black lawyers and for representing a Virginia school board in a desegregation case.

There is no significant controversy over Powell and, in fact, he has widespread support in the Senate. So the aim of holding up Senate committee action on him pending consideration of Rehnquist is to keep pressure on Rehnquist's opponents not to take a long time with him, thus delaying action on Powell, too.

Rehnquist, who is an assistant U.S. attorney general and formerly was a private lawyer in Phoenix, and members of Arizo-

na's congressional delegation were the only witnesses scheduled today by Judiciary Committee Chairman James O. Eastland, D-Miss.

In answering questions at the opening session of Senate hearings, Rehnquist said he still believes that the Supreme Court under former Chief Justice Earl Warren improperly wrote into the Constitution its "sympathy" for Communists and criminal suspects.

### Sticks to Views

He had made that criticism in a magazine article 14 years ago, accusing the Warren court of deciding cases according to a liberal political philosophy. While saying that today he would not use the phrase "political philosophy" to describe the Warren court's motives, the nominee said he still feels that the results came out as they did because of "ideological affinity" for Communists and criminal suspects.

He insisted that he had not felt the Supreme Court majority then was sympathetic with communism, but rather was sympathetic with the plight of unpopular groups.

While he said such sympathy was not "illegitimate," Rehnquist said he did not feel that sympathy or any others should be "read into the Constitution."

### Other Answers

Answering questions by Sens. Phillip Hart, D-Mich., and Edward M. Kennedy, D-Mass., Rehnquist gave these views on a variety of controversial issues:

On the government's power to conduct secret surveillance, he said the only "proper role" for this was in pursuing criminals, not political dissenters. He said there are several parts of the Constitution, including the free speech amendment, which act as a restraint on the government's power to spy on citizens.

On the violence at Kent State University leading to the death of four students, Rehnquist said it was his own impression that the use of their rifles by National Guardsmen was "misguided and unwarranted." But he said he had not expressed that view to Atty. Gen. John M. Mitchell, "because he never asked me."

On the role of the Supreme Court generally, Rehnquist said he does not believe that the justices should try to "deliver justice in the sense of meting out what they personally think is just," and he feels that personal philosophy should play no role in deciding cases.

Henry  
Taylor

## Powell: An able man



**I**N considering President Nixon's nomination of Lewis F. Powell Jr. for the Supreme Court the Senate is considering a remarkably able man.

Conservative? Liberal? These abused labels are vague and somewhat like a fog; they cover a lot of territory, but badly.

Moreover, true liberalism is actually a frame of mind and so-called conservatism must be receptive to change if it is successfully to conserve. Accordingly, the mere labels are as confused and confusing today as the gypsies in Spain who dance at funerals and cry at christenings.

The essential point is that this former president of the American Bar Association and scholar of our Constitution knows history, knows our laws, our country and the world today and most certainly will not cop out from responsibility.

**I**N recent years the Supreme Court has been pushing itself increasingly into questions that are really for the legislative branch to decide. It has been writing its own majority's social and economic views into law. It has been advancing its own social-economic preferences, not restrained by the Constitution or limited to the laws Congress enacted.

Chief Justice Charles Evans Hughes once wrote that our Constitution "is what the justices say it is." But the court has clearly departed from its constitutional moorings and, in effect, legislated as if it were a legislative body itself.

Even within the court, Justice John M. Harlan stated: "This court can increase respect for the Constitution only if it rightly respects the limitations which the Constitution places on this court. In the present case we exceed that. Our voice becomes only the voice of power, not constitutional opinion."

By legislating as well as adjudicating, the court has amazed and alarmed many of our country's finest constitutional lawyers, regardless of party or social-economic viewpoints. They saw destroyed the three fundamental separations of power in our government.

The court's decisions are actually another matter entirely. And widely publicized public resentments against these — very severe — are a separate and different issue. How severe? At the time President Nixon was inaugurated a Gallup Poll indicated that about 60 percent of the American people disapproved of the Supreme Court's positions.

59 DEC 17 1971

1768

*KP*

**T**HE court's continued twisting of the Constitution and the statutes in the cases judged has made a shambles of government by law in our country. It has so manhandled the first, fifth and fourteenth amendments that the country is powerless to live and operate except in ways literally originated by the court.

The court has leaned over backward in behalf of criminals and shown much more concern for the felons than for their victims. The lower courts, of course, have had to conform. Yet, are the "rights" of troublemakers more important than the rights of the sufferers?

Law is never able to catch more than a part of life; an important and vital part usually defies and escapes legal definition. Moreover, the Supreme Court's decisions are not "the law of the land," as so often erroneously described. They are the law of the case. But, in announcing Judge Powell's nomination and that of William H. Rehnquist, Mr. Nixon truly stated: "Presidents come and go but the Supreme Court thru its decisions goes on forever." And Judge Powell's character gives him standards for the public welfare and the ageless questions of the common good.

Lewis F. Powell Jr., believes in those standards and has followed them thruout his distinguished career, come what may.

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rose \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

[Redacted block]

b6/b7c

The Washington Post  
Times Herald

The Washington Daily News 23  
The Evening Star (Washington) \_\_\_\_\_  
The Sunday Star (Washington) \_\_\_\_\_  
Daily News (New York) \_\_\_\_\_  
Sunday News (New York) \_\_\_\_\_  
New York Post \_\_\_\_\_  
The New York Times \_\_\_\_\_  
The Daily World \_\_\_\_\_  
The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

NOV 4 1971

Date

77-121968-A  
FBI WASH D.C.  
DEC 16 1971

# Court Choice: Can't Sell Stock, Will Keep Out When Necessary

By DAVID BREASTED

Washington, Nov. 8 (NEWS Bureau) — Supreme Court nominee Lewis F. Powell, a millionaire corporation lawyer, said today he could not dispose of his major financial holdings without taking a tax beating, but if confirmed he would disqualify himself from ruling on cases involving companies in which he holds stock.

"I will endeavor, to the best of my ability, to comply with the canon of judicial ethics" of the American Bar Association, said Powell, a former president of the bar. He told the Senate Judiciary Committee that he owns securities worth about \$1.5 million.

Powell said he agreed with a proposed bar rule that "a judge should dispose of holdings—without substantial loss—in companies likely to come before his court." But he explained that a major portion of his holdings are in the Sperry Hutchinson Co. (S & H Green Stamps) and that he could not dispose of this investment without suffering a substantial tax loss.

#### Blind Trust Device

Powell said he found of "little assistance" the so-called blind trust device commonly used by well-heeled private citizens appointed to major government posts to avoid conflict of interest. Powell said trustees of any blind trust of his would have to tell him of gains and losses for tax purposes.

He noted that Sperry & Hutchinson is currently involved in a case pending before the high court, and indicated that he would have to disqualify himself.

The 64-year-old Richmond, Va., attorney also conceded that he knew very little about criminal law until after he became president of the ABA. He then served on a presidential crime commission and as a member of the ABA Committee on Reform of Criminal Law.

#### Questioned by Bayh

Sen. Birch Bayh (D-Ind.), who pressed Powell on his business holdings, also questioned him on his views on wiretapping by the federal government in cases involving a distinction between foreign and domestic subversion.

Bayh cited an article Powell wrote for the Richmond Times-Dispatch, later reprinted in the FBI's Law Enforcement Bulletin. In it, Powell referred to complaints of use of federal agencies to drop political "smecter" in tea-pot.

"I was not writing a law review article," Powell said. "I have no fixed view."

The article also said that a distinction between foreign and domestic subversion in cases involving wiretapping is "meaningless." "I may very well disqualify myself," Powell said, if a case similar to the circumstances he discussed in the article were to come before the court.

#### Hails U.S. Justice System

He said that he regards the U.S. system of justice as one of the fairest in the world and that he is deeply concerned at the alarm over allegedly repressive acts.

"One of the things that distresses me most is the widely prevailing view among the young that America is a repressive society," he said, adding that he regards repressive acts in the U.S. "episodic and not systematized."

Before Powell began his testimony today, committee Chairman James O. Eastland (D-Miss.) and



Associated Press Wirephotos  
Lewis Powell at Senate Judiciary Committee hearing.

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

*[Redacted]*  
Sen. Sam J. Ervin Jr. (D-N.C.), the Senate's best known constitutional expert, said they would vote for confirmation of Powell.

The committee plans to call back President Nixon's other Supreme Court nominee, Assistant Attorney General William H. Rehnquist, for further testimony.

*[Redacted]  
JG/btc*

The Washington Post Times Herald \_\_\_\_\_  
The Washington Daily News \_\_\_\_\_  
The Evening Star (Washington) \_\_\_\_\_  
The Sunday Star (Washington) \_\_\_\_\_  
Daily News (New York) 43 \_\_\_\_\_  
Sunday News (New York) \_\_\_\_\_  
New York Post \_\_\_\_\_  
The New York Times \_\_\_\_\_  
The Daily World \_\_\_\_\_  
The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

NOV 9 1971

Date

17-121938-A  
607 RECD  
DEC 16 1971

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen *(initials)*  
 Mohr \_\_\_\_\_  
 Bishop *(initials)*  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 DAlbey *(initials)*  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

**What to do with \$1.5 million**

# The problem with Powell

**UPI** — Supreme Court nominee Lewis Powell, who told the Senate Judiciary Committee yesterday that his \$1.5 million in stocks was "a troublesome problem," today faces hostile witnesses trying to keep him and William Rehnquist off the bench.

But Chairman James Eastland, D-Miss., continued to predict quick approval.

## SHORTER GRILLING

The committee finished its examination of Mr. Powell yesterday after only 4½ hours. In contrast, it questioned Mr. Rehnquist for two days last week with some senators — mainly Edward Kennedy, D-Mass.—wanting to question him further.

Sen. Eastland did not rule out additional personal interrogation of Mr. Rehnquist. "I don't know what charges may be made against him," he said.

The committee invited about 30 people who have asked to testify against Mr. Rehnquist to submit their testimony in advance. It was not known how many would actually be called.

Among almost certain witnesses, however, were Joseph Rauh, representing the Leadership Conference on Civil Rights; and Clarence

Mitchell, Washington representative of the NAACP.

## STOCK FLAP

Yesterday, Mr. Powell said he would consider disposing of large blocs of stock he owns which might present him with a conflict of interest problem once on the court. He said there were some stocks, however, that he could not sell without having to pay heavy capital gains taxes. In those cases, he said, he would disqualify himself.

Mr. Powell said the principal part of his portfolio was shares of the Sperry and Hutchinson Co. — the S and H green stamp firm — that he inherited from his father. He said he could not dispose of this stock with a substantial tax loss.

A case involving Sperry and Hutchinson is now pending before the Supreme Court.

59DEC17 1971

b6  
b7C



The Washington Post \_\_\_\_\_  
 Times Herald \_\_\_\_\_  
 The Washington Daily News *(initials)*  
 The Evening Star (Washington) \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

NOV 9 1971

Date \_\_\_\_\_

77-121928-A  
 207 EX-1000  
 DEC 16 1971

*[Handwritten signature]*

# Powell Recounts Integration Role

By John P. MacKenzie  
Washington Post Staff Writer

Lewis F. Powell Jr. told the Senate Judiciary Committee yesterday he was proud to have worked to keep Virginia schools open in the face of the state's official "massive resistance" segregation policy of the 1950s.

Powell, 64-year-old Supreme Court nominee, said he played "some part, though a modest part, in moving Virginia toward a progressive and fair policy" as a member of the Richmond and Virginia school boards.

Referring to Negroes on one occasion as "our black brothers," Powell said he opposed state tuition grant plans and other devices to circumvent the Supreme Court's 1954 decision.

In low-keyed tones the lean, conservative Richmond lawyer told Chairman James O. Eastland (D-Miss.) and other committee members that he favored locating new high schools in a way that would promote desegregation. He said he supported other equal education measures despite "strong forces" against them and "all sorts of criticism, mostly by whites."

At the witness table, Powell was accompanied at some times by Sen. Harry Flood Byrd Jr., son of the architect of Virginia's massive resistance policy. At other times Sen. William B. Spong (D-Va.), with whom Powell worked to keep the schools open, was at the nominee's side.

Committee liberals, many expressing their admiration for Powell, handled him gently, often attempting to draw an unfavorable contrast with the other nominee, Assistant Attorney General William H. Rehnquist, over civil rights issues.

"Have you at any time dur-

ing the last ten years voiced opposition to a public accommodations law or ordinance?" asked Sen. Phillip A. Hart (D-Mich.). Powell said he had not.

Completion of Powell's testimony set the stage for witnesses for and against both nominees when the committee meets today. Eastland, maintaining a swift pace for the hearings, said he hoped the committee could hold an executive session sometime this week to start clearing the nominations for floor action at least a week later.

One attempt to recall Rehnquist for further testimony on his philosophy was rebuffed by Attorney General John N. Mitchell in a letter to Sen. Birch Bayh (D-Ind.).

Last week Bayh, expressing frustration at Rehnquist's refusal to answer certain questions, wrote Mitchell asking that he waive the "attorney-client privilege" invoked by Rehnquist. As head of the Justice Department's Office of Legal Counsel, Rehnquist has specialized in rendering legal advice to the administration. President Nixon said Rehnquist's job was to be "the President's lawyer's lawyer."

In reply, Mitchell said it would be "entirely inappropriate" for him or the Presi-

Tolson	_____
Felt	_____
Rosen	_____
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Cleveland	_____
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

b6/b7C

The Washington Post	_____
Times Herald	A 1
The Washington Daily News	_____
The Evening Star (Washington)	_____
The Sunday Star (Washington)	_____
Daily News (New York)	_____
Sunday News (New York)	_____
New York Post	_____
The New York Times	_____
The Daily World	_____
The New Leader	_____
The Wall Street Journal	_____
The National Observer	_____
People's World	_____

Date NOV 9 1971

77-12473-4  
FBI WASH D.C.  
DEC 13 1971  
J. F. [Signature]

59 DEC 17 1971

dent to release Rehnquist to testify as to whether he personally believed in positions he took in public.

Such a waiver would expose confidential policy positions taken within the executive branch, so that in the future the attorney general might not have the benefit of "the free exchange of ideas and thoughts so essential to the proper and judicious discharge of my duties," Mitchell wrote.

Mitchell, who has tangled with Bayh over previous high court nominations, stressed in his letter that the waiver request "is made by you individually rather than by the full Senate Judiciary Committee." He said Eastland and Sen. Roman L. Hruska (R-Neb.), the ranking GOP member, had written him that the committee never before tried to get such a waiver.

Bayh said the President's own emphasis on the "judicial philosophy" of his nominees made the inquiry appropriate. He said Mitchell's refusal "has made it extremely difficult" to examine Rehnquist's philosophy despite the nominee's own agreement that his philosophy is relevant to the question of confirmation.

Powell said he felt he had an open mind on most criminal law issues despite his

strongly worded articles criticizing some Supreme Court decisions and denouncing as "standard leftist propaganda" charges that the government was invading privacy with wiretaps and other surveillance.

He said he admired many rulings of the "Warren Court," including decisions that state courts may not admit illegally seized evidence and that states must provide free legal counsel to indigent defendants.

Even the controversial 1964 decision throwing out the confession of Chicago defendant Danny Escobedo was correct, Powell said. He emphasized, however, that he disagreed with the breadth of the court's rulings that forbid most questioning of suspects at the scene of a crime.

Sen. Sam J. Ervin Jr. (D-N.C.) took exception to Powell's 1967 criticism of a Supreme Court ruling that state prosecutors must not com-

ment about the failure of an accused to testify in their own defense.

If the prosecutor can call that to the jury's attention, Ervin said, "there is nothing left of the presumption of innocence." Powell said he didn't think the prosecution tactic would compel a defendant to be a witness against himself.

Sen. Edward M. Kennedy (D-Mass.) cross-examined Powell about having said that some dissenters' complaints of "repression" were "standard leftist propaganda."

Kennedy placed in the record an FBI agent's statement — contained in papers stolen from the Bureau's Media, Pa., office last March — that questioning dissenters would "enhance the paranoia" characteristic of the radical left and make radicals think there was "an FBI agent behind every mailbox."

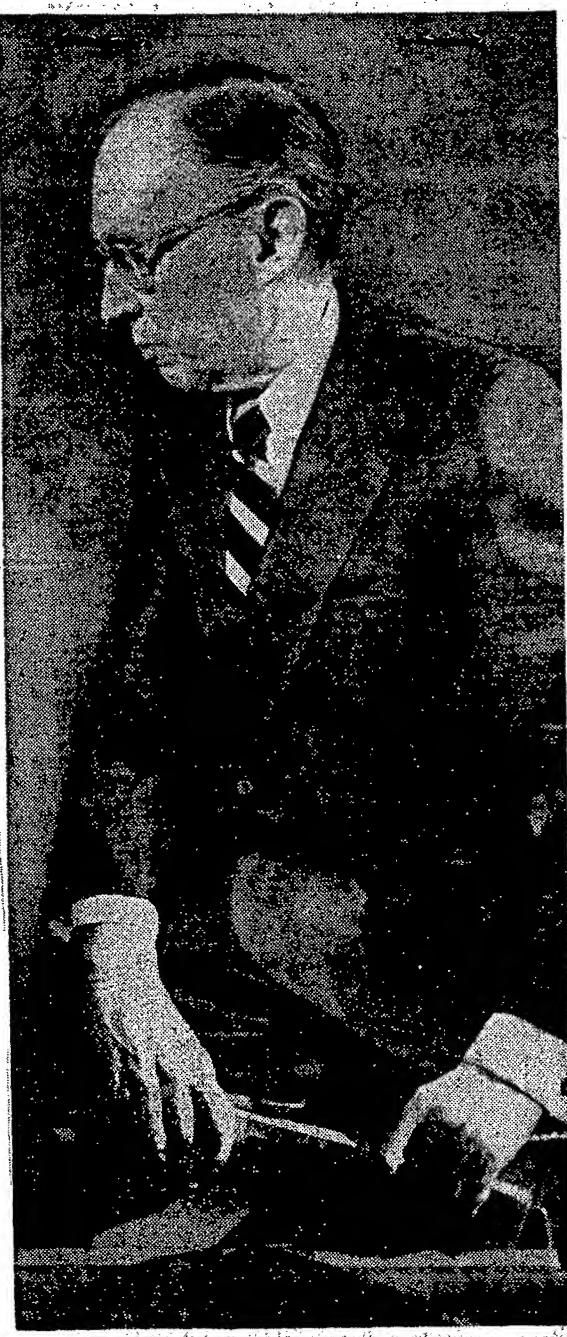
Suggesting that "rational men" could also be disturbed

about such matters, Kennedy asked, "Does this sort of thing concern you at all?"

"Of course it does," Powell replied. "The excerpt you read suggests an intolerable situation. I don't think anybody could support that type of society."

Powell said he would take steps if confirmed to minimize stock holdings in companies likely to come before the court. But he said the idea of a blind trust, which he had favored initially, might prove "awkward" in light of developing ethical standards.

Current federal law and proposed new canons of ethics require judges to know what is in their portfolios, which seems to rule out a system by which the judge insulates himself from his holdings and knowledge about them, Powell said. His investments, which Powell said did not include his entire assets, have an estimated value of more than \$1.4 million.



By Matthew Lewis—The Washington Post  
**Lewis F. Powell opens briefcase before Senate hearing.**

# A Response to Mr. Powell

By NORMAN DORSEN 43

When Lewis F. Powell was nominated to the Supreme Court many civil libertarians were satisfied. Not elated or even pleased. But satisfied. Despite his mixed record in Virginia on civil rights, he was apparently a conservative lawyer who, like Justice John M. Harlan, would bring learning and professional competence along with a high sense of purpose to his new office.

I personally hoped that, as has so often happened, the donning of judicial robes would be more than ceremonial, and Justice Powell would evince a healthy concern for curbing Government excesses and safeguarding the constitutional rights of all citizens, including weak and unpopular minorities. But Mr. Powell's recent article on this page leaves me less sanguine about what to expect.

With respect, I suggest that Mr. Powell's analysis is flawed by important errors of fact, by omissions of noteworthy examples of recent "repression" by the Government, and most troubling of all, by a tone that can only be described as ominous.

Take wiretapping. Mr. Powell states that the Department of Justice employs taps in two types of cases; one, he says, includes "murder, kidnapping, extortion and narcotics offenses." In fact, the 1970 report by the department states that of 183 taps sanctioned by court order, there was not a single case of murder or kidnapping, and there were 121 cases of gambling. In addition, Mr. Powell assumes that 183 taps means 183 intrusions on privacy. Actually, these taps mean literally thousands of conversations overheard, most involving private matters unconnected to crime.

Or consider the central issue of a free press. Mr. Powell states, "There is no more open society in the world than America. No other press is as free." Perhaps. But in recent years the Vice President has relentlessly pressured "Eastern" newspapers and network television. The Department of

Justice has subpoenaed the confidential notes and demanded private sources of news reporters. Congress has sought the unused film clips of "The Selling of the Pentagon." And in the Pentagon Papers litigation, for the first time in the nation's history, the Federal Government tried to enjoin the publication of daily newspapers.

There is ample other evidence of

official action inimical to individual rights. There has been a return to the discredited era of loyalty-security investigations through the resurrection of the Subversive Activities Control Board and loyalty oaths on passport applications. Surveillance of private citizens engaged in lawful conduct has been intensified. Preventive detention has been blessed as a law enforce-

ment device. The Administration imposed the limitation of habeas corpus. The Justice Department defended with zeal the mass arrests in Washington on Mayday, virtually all of which were subsequently reversed by the courts. And there has been a notable absence of leadership in race relations.

These and other events suggest that Mr. Powell may erroneously assume that because dissent still flourishes in America—that is, because the repressive activities of the Federal Government have not been entirely effective—there is no repression here.

But private citizens sensitive to these issues believe otherwise. The Committee for Public Justice, comprised of eighty prominent citizens, stated in 1970 that "the country has entered a period of political repression in which the Constitution itself is being ignored by men in power." And if the committee is regarded as too liberal, recall that after full study the young lawyers section of the American Bar Association concluded in July 1971, "Ours is not by nature a repressive society; yet there is currently an antilibertarian climate in the United States which properly can be labeled 'repressive.'

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

b6  
b7c

The Washington Post Times Herald \_\_\_\_\_  
 The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times 43 \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

NOV 16 1971

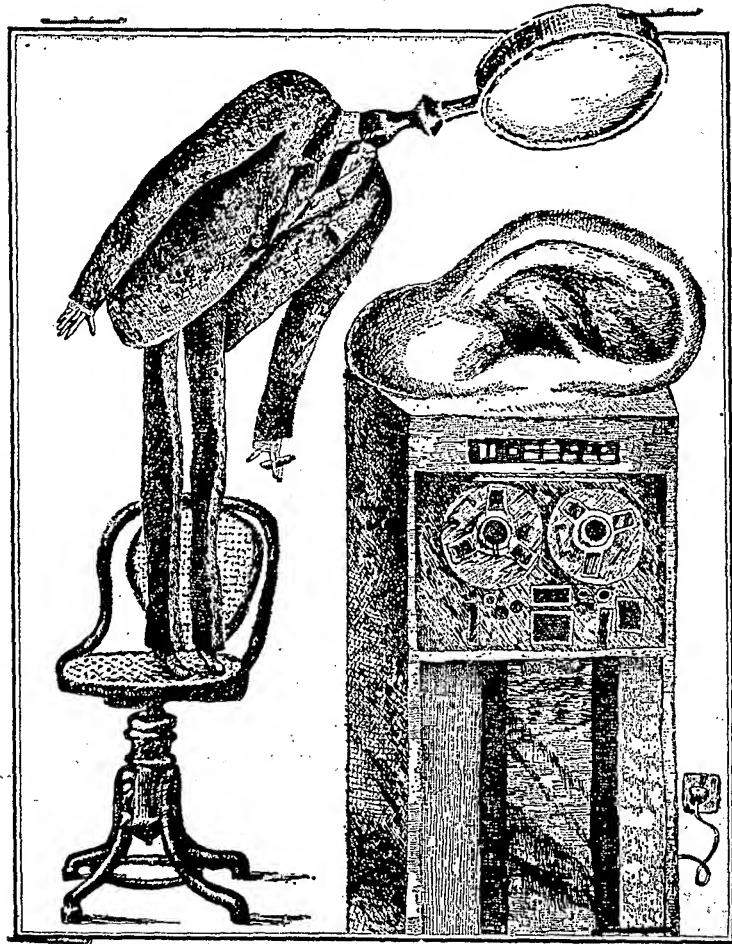
Date

72-12174-8-A  
DEC 16 1971

59 DEC 17 1971

More important, in my opinion, than Mr. Powell's conclusions regarding the extent of repression is the tone of his remarks. Again and again he speaks of "standard leftist propaganda" in rejecting the views of those who believe our rights are threatened, and he attributes much of the concern with civil liberty to the "radical left" or "a propaganda line." This style of argument has been disappearing, and I had thought it was discredited. It is both sad and frightening to contemplate the possibility that we are in a new era when those who battle for civil liberties, often at personal sacrifice, are to be accused, however indirectly, of disloyalty or naive delusion.

*Prof. Norman Dorsen of New York University Law School is general counsel of the A.C.L.U.*



Eugene Mihaesco

# Panel to Vote By Tuesday on Court Choices

By John P. MacKenzie  
Washington Post Staff Writer

The Senate Judiciary Committee worked out an agreement yesterday to vote no later than noon Tuesday on the President's two Supreme Court nominees.

In two hours of parliamentary maneuvering behind closed doors, the committee scheduled the final vote after refusing, by 10-to-5 votes, to reopen hearings or to consider William H. Rehnquist apart from Lewis F. Powell Jr.

With a one-week delay for the printing of majority and minority opinions, the confirmation schedule indicates that the nominations will reach the Senate floor Nov. 30 and come up for debate and final vote before Congress adjourns for the year.

Powell, a 64-year-old Richmond lawyer, appears to have no opposition in the Senate, but Rehnquist, 47, assistant attorney general for legal counsel, has stirred criticism for his views on civil rights and civil liberties.

Supporters of Rehnquist consented yesterday to have the nominee answer in writing further questions about his philosophy and new questions about alleged harassment of minority voters in Phoenix and alleged connections with right-wing organizations in Arizona.

Chairman James O. Eastland (D-Miss.) agreed to cooperate with Sen. Birch Bayh (D-Ind.), a leading Rehnquist critic, by asking the FBI to check further into suggestions from recently discovered documents that Rehnquist was a member of the right-wing Arizonans for America in 1960.

Both Eastland and Attorney General John N. Mitchell have declared that the FBI's investigation of Rehnquist makes clear that he was not a member. Rehnquist has specifically denied membership in the John Birch Society.

Bayh said he expected to find that Rehnquist had not belonged to the Arizona group, which he said had an "Impeach Earl Warren" approach and may have been a precursor of the John Birch Society. But Bayh wondered why the nominee couldn't issue his own denial. "He

shouldn't need the Attorney General as a baby sitter," the senator told newsmen.

Later John V. Tunney (D-Calif.), a committee member, became the first senator to announce publicly that he will oppose Rehnquist.

Tunney said he is ready to vote without waiting for more evidence because he is satisfied that Rehnquist "does not have the fidelity to the Bill of Rights that a Supreme Court justice must have."

"I believe that he places a very low value upon fundamental principles of equality and individual liberties," Tunney said. "His justification of a vast expansion of the Subversive Activities Control Board, his defense of unrestricted governmental surveillance, his rationale for preventive detention, all of these demonstrate that he is quite the reverse of a 'strict constructionist'!"

Instead of construing the Constitution literally, Tunney said, Rehnquist "seems quite willing to read into the powers of the Executive Branch an unrestricted latitude which threatens the very basis of individual freedoms." He said he felt that Rehnquist, in contrast to Powell, "is essentially closed-minded."

In yesterday's 10-to-5 voting, Bayh and Tunney were joined by Sens. Philip A. Hart (D-Mich.), Edward M. Kennedy (D-Mass.) and Quentin N. Burdick (D-S.D.) in the minority.

Bayh said he was not attempting to filibuster within the committee but was still trying to complete the hearing record. Another committee member, Sen. John L. McClellan (D-Ark.), said a filibuster would have been impractical in view of the Senate's power to discharge the nominations from the committee.

Tolson	_____
Felt	_____
Rosen	_____
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Waveland	_____
Ponder	_____
Bates	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

b6  
b7c



ne Washington Post Times Herald A 5  
ne Washington Daily News \_\_\_\_\_  
e Evening Star (Washington) \_\_\_\_\_  
e Sunday Star (Washington) \_\_\_\_\_  
ily News (New York) \_\_\_\_\_  
day News (New York) \_\_\_\_\_  
v York Post \_\_\_\_\_  
- New York Times \_\_\_\_\_  
Daily World \_\_\_\_\_  
New Leader \_\_\_\_\_  
Wall Street Journal \_\_\_\_\_  
National Observer \_\_\_\_\_  
ile's World \_\_\_\_\_

11-19-71

John [Signature]

73-2028-1

NOT FOR PUBLIC RELEASE

DEC 16 1971

59 DEC 1971

# Panel to Vote By Tuesday on Court Choices

By John P. MacKenzie  
Washington Post Staff Writer

The Senate Judiciary Committee worked out an agreement yesterday to vote no later than noon Tuesday on the President's two Supreme Court nominees.

In two hours of parliamentary maneuvering behind closed doors, the committee scheduled the final vote after refusing, by 10-to-5 votes, to reopen hearings or to consider William H. Rehnquist apart from Lewis F. Powell Jr.

With a one-week delay for the printing of majority and minority opinions, the confirmation schedule indicates that the nominations will reach the Senate floor Nov. 30 and come up for debate and final vote before Congress adjourns for the year.

Powell, a 64-year-old Richmond lawyer, appears to have no opposition in the Senate, but Rehnquist, 47, assistant attorney general for legal counsel, has stirred criticism for his views on civil rights and civil liberties.

Supporters of Rehnquist consented yesterday to have the nominee answer in writing further questions about his philosophy and new questions about alleged harassment of minority voters in Phoenix and alleged connections with right-wing organizations in Arizona.

Chairman James O. Eastland (D-Miss.) agreed to cooperate with Sen. Birch Bayh (D-Ind.), a leading Rehnquist critic, by asking the FBI to check further into suggestions from recently discovered documents that Rehnquist was a member of the right-wing Arizona for America in 1960.

Both Eastland and Attorney General John N. Mitchell have declared that the FBI's investigation of Rehnquist makes clear that he was not a member. Rehnquist has specifically denied membership in the John Birch Society.

Bayh said he expected to find that Rehnquist had not belonged to the Arizona group, which he said had an "Impeach Earl Warren" approach and may have been a precursor of the John Birch Society. But Bayh wondered why the nominee couldn't issue his own denial. "He shouldn't need the Attorney General as a baby sitter," the senator told newsmen.

Later John V. Tunney (D-Calif.), a committee member, became the first senator to announce publicly that he will oppose Rehnquist.

Tunney said he is ready to vote without waiting for more evidence because he is satisfied that Rehnquist "does not have the fidelity to the Bill of Rights that a Supreme Court justice must have."

"I believe that he places a very low value upon fundamental principles of equality and individual liberties," Tunney said. "His justification of a vast expansion of the Subversive Activities Control Board, his defense of unrestricted governmental surveillance, his rationale for preventive detention, all of these demonstrate that he is quite the reverse of a 'strict constructionist.'

Instead of construing the Constitution literally, Tunney said, Rehnquist "seems quite willing to read into the powers of the Executive Branch an unrestricted latitude which threatens the very basis of individual freedoms." He said he felt that Rehnquist, in contrast to Powell, "is essentially closed-minded."

In yesterday's 10-to-5 voting, Bayh and Tunney were joined by Sens. Philip A. Hart (D-Mich.), Edward M. Kennedy (D-Mass.) and Quentin N. Burdick (D-S.D.) in the minority.

Bayh said he was not attempting to filibuster within the committee but was still trying to complete the hearing record. Another committee member, Sen. John L. McClellan (D-Ark.), said a filibuster would have been impractical in view of the Senate's power to discharge the nominations from the committee.

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

b6  
b7c

The Washington Post Times Herald \_\_\_\_\_

The Washington Daily News \_\_\_\_\_

The Evening Star (Washington) \_\_\_\_\_

The Sunday Star (Washington) \_\_\_\_\_

Daily News (New York) \_\_\_\_\_

Sunday News (New York) \_\_\_\_\_

New York Post \_\_\_\_\_

The New York Times \_\_\_\_\_

The Daily World \_\_\_\_\_

The New Leader \_\_\_\_\_

The Wall Street Journal \_\_\_\_\_

The National Observer \_\_\_\_\_

People's World \_\_\_\_\_

Date NOV 19 1971

77-19193-B-6

NOT RECORDED

DEC 16 1971

59 DEC 17 1971

Vpex ✓  
Tolson  
Felt ✓  
Rosen ✓  
Mohr  
Bishop  
Miller, E.S.  
Callahan  
Casper  
Conrad  
Dalbey  
Eleveland  
Ponder  
Bates  
Tavel  
Walters  
Soyars  
Tele. Room  
Holmes  
Gandy

UPI-12

(JUSTICES)

WASHINGTON--PROSPECTS FOR COMMITTEE APPROVAL OF WILLIAM REHNQUIST'S SUPREME COURT NOMINATION APPEARED CERTAIN TODAY FOLLOWING REHNQUIST'S FRESH AND FLAT DENIALS OF EVER HAVING HARASSED BLACK VOTERS DURING THE 1964 ELECTION OR OF EVER BELONGING TO A JOHN BIRCH TYPE ORGANIZATION.

THE SENATE JUDICIARY COMMITTEE PLANNED TO MEET TOMORROW TO VOTE ON THE NOMINATIONS OF BOTH REHNQUIST AND PRESIDENT NIXON'S OTHER NOMINEE, LEWIS POWELL. IT WAS VIRTUALLY CERTAIN THE COMMITTEE WOULD APPROVE BOTH NOMINATIONS AND SEND THEM TO THE FULL SENATE FOR A CONFIRMATION VOTE.

Liberals on the Judiciary panel submitted 15 written questions to Rehnquist Friday and the assistant attorney general answered them, also in writing, during the weekend. In addition the committee requested an FBI investigation of Rehnquist's political background.

In his answers Rehnquist flatly denied the two most prominent charges made against him.

One was that he pulled Negro voters out of line at a polling place in the Bethune precinct of Phoenix Ariz., in 1964 and asked them to recite portions of the Constitution in his role as a Republican party voter challenger.

Rehnquist denied that charge with a one line answer: "I was not present at Bethune precinct at any time on election day in 1964." He had previously denied the substance of the charge.

The second charge grew out of a story in the St. Louis Post-Dispatch which suggested Rehnquist might have belonged to "Arizonans for America" -- an organization described by one Rehnquist critic as a precursor of the John Birch Society.

"I have never been a member of 'Arizonans for America,'" Rehnquist responded. "I have seen a newspaper clipping from a local newspaper in 1958 which indicates that I was one of four panelists who appeared at a meeting of Arizonans for America in 1958 to discuss the federal income tax."

"While I have no independent recollection of speaking at such a meeting, I have no reason to dispute the newspaper account," he added.

11/22-6E843A

77-191928-A  
DEC 16 1971

59DEC17 1971

WASHINGTON CAPITAL NEWS SERVICE

Viper 3  
Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

b6  
b7c

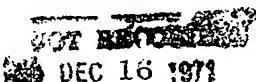
UPI-80

(JUSTICES)

WASHINGTON--LEWIS F. POWELL AND WILLIAM H. REHNQUIST WERE ENDORSED  
TODAY BY THE SENATE JUDICIARY COMMITTEE FOR CONFIRMATION AS SUPREME  
COURT JUSTICES -- POWELL UNANIMOUSLY AND REHNQUIST BY A 12-4 VOTE.

11/23--GE1206P

77-121928-A



file

59DEC17 1971

WASHINGTON CAPITAL NEWS SERVICE

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

UPI-82

ADD 1 JUSTICES, WASHINGTON (UPI-80)  
OPPONENTS OF POWELL AND REHNQUIST, 47, AN ASSISTANT ATTORNEY  
GENERAL, VOWED THEY WOULD CONTINUE TO FIGHT HIS APPOINTMENT ON THE  
SENATE FLOOR. THE 64-YEAR-OLD POWELL, A RICHMOND ATTORNEY AND A  
FORMER PRESIDENT OF THE AMERICAN BAR ASSOCIATION, IS EXPECTED TO HAVE  
CLEAR SAILING.

VOTING AGAINST CONFIRMATION OF REHNQUIST IN THE COMMITTEE WERE  
SENS. BIRCH BAYH, D-IND., EDWARD M. KENNEDY, D-MASS., PHILIP A.  
HART, D-MICH., AND JOHN V. TUNNEY, D-CALIF.  
11/23--GE-JA1210PES

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

**BEST COPY AVAILABLE**

UPI-85

ADD 2 JUSTICES, WASHINGTON  
 OPPONENTS WERE GIVEN ONE WEEK TO WRITE THEIR MINORITY VIEWS AGAINST  
 REHNQUIST'S CONFIRMATION. BAYH SAID HE HAD ASKED FOR AN EXTRA  
 DAY BUT WAS TURNED DOWN.

CHAIRMAN JAMES O. EASTLAND, D-MSS., SAID THE VOTE ON REHNQUIST  
 WAS TAKEN FIRST AND WILL BE REPORTED FIRST ON THE SENATE'S EXECUTIVE  
 CALENDAR. EASTLAND NOTED, IN RESPONSE TO A REPORTER'S QUESTION,  
 HOWEVER, THAT IT WOULD BE UP TO SENATE DEMOCRATIC LEADER MIKE  
 MANSFIELD TO DECIDE WHETHER THE SENATE WILL CONSIDER POWELL OR  
 REHNQUIST FIRST.

EASTLAND ALSO SAID THAT A SPECIAL FBI INVESTIGATION REQUESTED BY  
 THE COMMITTEE TURNED UP NO EVIDENCE THAT REHNQUIST HAD EVER BEEN A  
 MEMBER OF A RIGHT WING POLITICAL ACTION GROUP, ARIZONANS FOR AMERICA.  
 EASTLAND READ A HAND-WRITTEN LETTER FROM GEORGE HEARN WOOD, A  
 PHOENIX OPTOMETRIST, A FOUNDER AND THE LAST PRESIDENT OF THE  
 ORGANIZATION, WHICH SAID REHNQUIST WAS NEVER A MEMBER.

EASTLAND SAID HE COULD NOT PREDICT WITH CERTAINTY WHEN THE SENATE  
 WILL BEGIN DEBATE ON THE NOMINEES BUT HE SAID HE HOPED IT WOULD BE  
 NO LATER THAN A WEEK FROM THURSDAY. SENATE DEMOCRATIC LEADER MIKE  
 MANSFIELD TOLD REPORTERS EARLIER CONSIDERATION OF REHNQUIST AND  
 POWELL WOULD BE THE LAST ITEM OF SENATE BUSINESS BEFORE ADJOURNMENT.

11/23--JA1225PES

**BEST COPY AVAILABLE**

WASHINGTON CAPITAL NEWS SERVICE

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

UPI-87

ADD 3 JUSTICES, WASHINGTON  
 FOLLOWING THE COMMITTEE MEETING, BAYH, WHO LED FIGHTS THAT LED  
 TO SENATE REJECTION OF SUPREME COURT NOMINEES CLEMENT F. HAYNSWORTH  
 AND G. HARROLD CARSWELL, ISSUED THIS STATEMENT:

"I HAVE RELUCTANTLY CONCLUDED THAT WILLIAM REHNQUIST APPROACHES THE  
 GREAT QUESTIONS OF HUMAN LIBERTY IN A WAY WHICH REVEALS A DANGEROUS  
 HOSTILITY TO THE GREAT PRINCIPLES OF EQUAL JUSTICE FOR ALL PEOPLE AND  
 INDIVIDUAL FREEDOM UNDER THE BILL OF RIGHTS. FOR THIS REASON I MUST  
 VOTE AGAINST ADVISING AND CONSENTING TO HIS NOMINATION."

TUNNEY LAST WEEK ANNOUNCED HE TOO WOULD VOTE AGAINST  
 CONFIRMATION. OTHER SENATORS HAVE NOT YET SPOKEN OUT BUT SENATE  
 AIDES SAID THEY THOUGHT THEY WOULD COUNT BETWEEN 20 AND 25 VOTES  
 AGAINST REHNQUIST. THERE APPEARED TO BE NO VISIBLE OPPOSITION TO  
 POWELL.

11/23--JA1234PES

# Rehnquist, Powell Okayed

## Nominations Go to Senate Next Week

By LYLE DENNISTON  
Star Staff Writer

The Senate Judiciary Committee today approved the Supreme Court nominations of Richmond lawyer Lewis F. Powell Jr. and Asst. Atty. Gen. William H. Rehnquist.

Powell won unanimous approval, and Rehnquist was cleared by a 12-4 vote.

Voting against Rehnquist were Sens. Birch Bayh, D-Ind.; Philip A. Hart, D-Mich.; Edward M. Kennedy, D-Mass.; and John V. Tunney, D-Calif.

Voting for him were five Democrats and all seven committee Republicans.

The panel agreed to send the nominations to the Senate floor next Tuesday night, giving the opponents of Rehnquist a week to file their minority report.

### Mansfield Sets Date

Senate Majority Leader Mike Mansfield, D-Mont., told reporters today that the two nominations would be taken up as the last item of business before the Senate adjourns next month.

However, committee chairman James O. Eastland, D-Miss., said supporters of the nominations "are aiming at a week from Thursday" as the time to begin Senate debate.

Eastland indicated that the supporters of Rehnquist still hope to bring up his nomination first, rather than acting first on the non-controversial nomination of Powell and perhaps leaving Rehnquist stranded.

The chairman said Rehnquist's name would be listed first on the Senate calendar. However, it apparently is up to Mansfield to decide the order in which the nominations are brought up on the Senate floor.

### One Hour Discussion

Senate Minority Leader Hugh Scott, R-Pa., said he thought it possible the nominations would be considered a week from Thursday. He indicated that the deputy Democratic leader, Sen. Robert C. Byrd, D-Va., had advised him of that possibility.

The Senate committee acted first on Rehnquist after discussing his nomination for more than an hour.

When the vote came, one Democratic member who earlier had seemed likely to vote against him, Sen. Quinton N. Burdick of North Dakota, voted for Rehnquist.

Mansfield's plan to put the nominations last on the Senate agenda for this year might raise some difficulty in getting both of them cleared before adjournment. A last-minute controversy over political campaign spending could make it difficult for the Senate to reach a final vote on the nominations before going home.

As the Senate committee assembled today for its vote, Sen. Bayh raised a new issue over Rehnquist's racial views.

In a statement last night, Bayh said that Rehnquist attempted five years ago to delete two "key provisions" of a proposed model state law against racial bias.

As the representative of his home state of Arizona at a national conference of Commissioners on Uniform State Laws, Rehnquist tried but failed, Bayh

said, to strike out a ban on "blockbusting" realty tactics and a provision for employers to adopt voluntary plans against job discrimination.

These actions along with other statements by Rehnquist on racial issues, Bayh said, show "a persistent unwillingness to permit law to be used to promote racial equality in America."

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

A Justice Department spokesman said Rehnquist voted for the model bill on a final tally, thus supporting the two provisions he had sought to delete earlier.

Another attempt by civil rights spokesmen to get the Senate committee to probe further into Rehnquist's views and background was made yesterday.

b6/b7c

The Washington Post  
Times Herald \_\_\_\_\_

The Washington Daily News

The Evening Star (Washington) *H*

The Sunday Star (Washington) \_\_\_\_\_

Daily News (New York) \_\_\_\_\_

Sunday News (New York) \_\_\_\_\_

New York Post \_\_\_\_\_

The New York Times \_\_\_\_\_

The Daily World \_\_\_\_\_

The New Leader \_\_\_\_\_

The Wall Street Journal \_\_\_\_\_

The National Observer \_\_\_\_\_

People's World \_\_\_\_\_

Date NOV 23 1971

77-121928-A  
NOT FOR PUBLIC RELEASE  
DEC 16 1971

FINAL EDITION

59 DEC 17 1971



WILLIAM H. REHNQUIST



LEWIS F. POWELL JR.

BEST COPY AVAILABLE

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

b6  
b7c

Lewis F.

12-121926-A  
NOT RECORDED  
DEC 16 1971

file JX

JWS

59 DEC 17 1971

WASHINGTON CAPITAL NEWS SERVICE

BEST COPY AVAILABLE

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

JAMES J. KILPATRICK

A-11

## Lewis Powell Deserves to Be Better Known

The character assassins of the liberal left recently sent their top guns to Arizona, with instructions to bring back any nastiness they could find against William Rehnquist. The scavengers found just enough to befoul themselves.

One result of this vicious enterprise has been virtually to guarantee Rehnquist's confirmation for the Harlan seat on the U.S. Supreme Court. The Senate is likely to find these desperation tactics beyond its notice and beneath its contempt. One other result, unhappily, has been nearly to obscure the companion nomination of Lewis F. Powell Jr., for the seat left vacant by the retirement and death of Hugo Black.

This is a pity, for Powell deserves to be better known by the public as a whole. He is a great lawyer, but he is much more: He is one of the finest and most decent human beings to reach the national stage in my lifetime. I write of him with a warmth kindled by the friendship of 25 years.

Powell was born in Suffolk,

Va., Sept. 19, 1907. That makes him 64 now, but he is a remarkably young and vigorous 64. To the envy of his colleagues at "the factory," some of whom are getting thin on top and plump at the middle, Powell has kept marvelously fit. He should serve for many years on the court.

What kind of judge will he be? Almost certainly he will reflect those qualities and characteristics his friends have observed throughout his lifetime.

He is a quiet man, reserved, a little shy, more given to listening than to talking. He speaks well, in a voice trained by 40 years at the bar, but he is a better writer than a speaker. There is nothing purple in his prose, but there is nothing muddy either. His gifts are clarity, order, and reason. He is not much for epigrams, which sacrifice something to precision, but he turns a nice phrase. He is a scholar; and he loves the law.

President Nixon, in choosing Powell, denominated him a "conservative," and the de-

b6  
b7C

The Washington Post  
Times Herald \_\_\_\_\_

The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) A-11  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

NOV 23 1971

Date \_\_\_\_\_

77-121938-A  
 FOR RECORDED  
 DEC 16 1971

59DEC17 1971

scription is fair enough. Given a choice between stability and innovation, Powell probably would stand by stability 8 times out of 10. But he is a rare bird of the right wing—a conservative with compassion. Thus no one who knew Powell was taken by surprise six years ago, when he moved out in front of the bar with a moving plea in behalf of legal services for the poor.

"Equal justice for every man is one of the great ideals of our society," Powell said at that time. "This is the end for which our entire legal system exists. It is central to that system that justice should not be withheld or denied because of an individual's race, his religion, his beliefs or his station in society. . . . But this ideal can only be attained when the advocacy of competent counsel is available to all—especially to the ignorant and the impoverished."

Powell assuredly is a man of "law and order." He has small patience with rioters and ~~insurgents~~ of the peace.

He has denounced organized crime because of its exploitation of "the poor, the uneducated and the culturally deprived." He feels strongly that some of the most respected values of Western civilization are in peril, and he wants to see these preserved. Foremost among these values, in his lawyer's view, are the cherished protections of the Bill of Rights.

To speak merely of Powell the lawyer is to neglect a large part of his life. His wide-ranging interests go to education, to national defense, to the promotion of libraries. He is a compulsive reader and world traveler. In the highest tradition of Virginia, he has served both his city and his state, and he has served with devotion and skill.

Powell will be the first Virginian on the court since that eccentric dissenter, Peter V. Daniel, held a seat from 1841 to 1860. Mr. Justice Daniel is long since forgotten. Mr. Justice Powell, I believe, will be long remembered.

## Scott Expects A Unanimous OK for Powell

By FRANK VAN RIPER

Washington, Dec. 4 (NEWS Bureau)—The Senate held today its first full day of debate on President Nixon's latest Supreme Court nominations amid Republican predictions that both men will be overwhelmingly approved.

GOP Leader Hugh Scott (Pa.) told reporters that "not a single senator" is likely to oppose Lewis F. Powell, 64, when his nomination is voted upon at 4

P.M. Monday. It seemed a safe bet, as no formal opposition to the Virginia lawyer has yet arisen.

Not so certain, however, is the fate of assistant attorney general William H. Rehnquist's high court nomination. Scott nevertheless predicted that once his colleagues "settle down and vote," Rehnquist "will receive in excess of 73 votes." At the most, Rehnquist needs only 51 yes votes, or a simple majority of all 100 senators—if all are present and voting—to win confirmation.

### No Date on Rehnquist

Exactly when Rehnquist's nomination will be voted on is uncertain, following last week's decision by the Democratic leadership to consider the high court picks separately, with Powell first.

This was a small tactical victory for Rehnquist's opponents who conceded that if they are to succeed in blocking his nomination at all, they will need time to make their case and twist it.

However, in going along with separate votes, Democratic Leader Mike Mansfield (Mont.), also let it be known that he wants both nominations disposed of before Congress adjourns for Christmas. The time limit can only work against Rehnquist's opponents and as of today at least, his confirmation appeared likely.

Last Thursday, Sen. Edward Brooke (R-Mass.) the Senate's only black member, became the first Republican to oppose the nomination of Rehnquist, a conservative Arizona Republican who supported Sen. Barry Goldwater's (R-Ariz.) 1960 presidential bid.

Brooke said he based his position on what he viewed as Rehnquist's noncommittal stand on the need for school desegregation.

As the Senate began the debate last evening, the same coalition of Senate liberals who successfully blocked Nixon's high court nominations of G. Harrold Carswell and Clement F. Haynesworth Jr. were scrambling to gain support.

Powell, meanwhile, was praised today by Senate Judiciary Committee Chairman James O. Eastland (D-Miss.).

"In my judgement he is a great gentleman, a great lawyer, a great southerner and a great American, and I am confident that he will make a great justice of the Supreme Court," Eastland declared.

Scott and Mansfield agreed.



Sen. Hugh Scott  
Optimistic on Rehnquist

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

*Rex*  
*CJW*  
 b6  
 b7c  
 [Redacted]  
 [Redacted]

The Washington Post Times Herald \_\_\_\_\_  
 The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) 58  
 New York Post \_\_\_\_\_  
 The New York Times \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

Date DEC 5 1971

77-12198-A  
 403 REVO  
 DEC 16 1971

1308  
 J.R.  
 J.R.  
 J.R.

59 DEC 17 1971

**SCOTT SAYS POWELL  
WON'T BE OPPOSED**

Special to The New York Times

WASHINGTON, Dec. 4—The Senate spent three and a half hours today discussing President Nixon's Supreme Court nomination of Lewis F. Powell Jr., without any member declaring opposition to the nomination.

Senator Hugh Scott of Pennsylvania, the minority leader, predicted that Mr. Powell would be confirmed without any opposing votes when the Senate acts on his nomination at 4 P.M. on Monday.

Senator Scott also stated after the Senate recessed early this afternoon, that there were now "71 hard votes" in favor of the nomination of William H. Rehnquist. He predicted that Mr. Rehnquist would get "in excess of 74" votes when the vote is taken. Senator Scott said that vote would come between Thursday and Saturday.

It was erroneously reported in The New York Times today that Senator Jacob K. Javits, New York Republican, had announced that he would vote against Mr. Rehnquist. Senator Javits's office said today that he was still undecided and that he was studying the hearing record today.

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen *fa* \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland *fa* \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

b6  
b7C



The Washington Post \_\_\_\_\_  
 Times Herald \_\_\_\_\_  
 The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times *78* \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

77-121928-A  
 [REDACTED]  
 DEC 16 1971

Date *DEC 5 1971*

TOP CLIPPING  
 DATED 12/12/71  
 FROM *WASH. POST*  
 MARKED FILE AND INITIALED

59 DEC 17 1971

1/368

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

# Powell Is Confirmed, 89 to 1; Long Rehnquist Debate Seen

By John P. MacKenzie  
Washington Post Staff Writer

The Senate confirmed the Supreme Court nomination of Lewis F. Powell Jr. yesterday by a vote of 89 to 1, and plunged into a probably prolonged debate over the qualifications of the other nominee, William H. Rehnquist.

Powell, a 64-year-old Richmond attorney who accepted the nomination only at the personal urging of President Nixon, thus became the third Nixon nominee to win Senate confirmation out of the six men, including Rehnquist, nominated to the high court since 1969.

In Richmond, Powell said he was gratified by the Senate's action and its "generous margin of approval," but added:

"The near-unanimity of support frightens me a little. I am too conscious of my own limitations to take it at face value. I am afraid I cannot live up to such high expectations."

He said he doesn't expect to take his seat before the new year.

The vote on Powell was quickly followed by an opening round of speeches by supporters of Rehnquist, an assistant attorney general and frequent spokesman for controversial administration policies.

Sen. Birch Bayh (D-Ind.), alternately praising Powell and criticizing Rehnquist, challenged the first Republican

speaker, Sen. Roman L. Hruska (Neb.), to debate a series of statements on the nominee, but Hruska said there was ample time for that later. Hruska joined Sen. James O. Eastland (D-Miss.) in defending Rehnquist against what Eastland called "desperate and irresponsible efforts" to discredit the high court candidate on civil rights and civil liberties grounds.

Referring to Bayh's announced intention to conduct an extended examination, Hruska said, "I will be available all week, and all next week if necessary."

See NOMINEES, A7, Col. 3

The Washington Post Times Herald A-1

The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
 The New Leader \_\_\_\_\_  
 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

Date December 7, 1971

74-121928-A  
 HOT NEWS  
 DEC 16 1971

59DEC17 1971

# Powell Confirmed, 89 to 1; Long Rehnquist Debate Seen

## NOMINEES, From A1

Bayh replied, "And maybe the week after."

The Senate is driving for adjournment but Majority Leader Mike Mansfield (D-Mont.) has pledged to keep the Senate in session until it disposes of Rehnquist one way or the other.

Shortly before adjournment last evening, Bayh asked deputy floor leader Robert C. Byrd (D-W.Va.) whether a senator could speak on a subject "such as India" during time reserved for the pending nomination. Byrd replied that there was no rule requiring that all speeches be germane when the Senate is considering a nomination.

Hruska charged that civil rights advocates found fault with Rehnquist "because he is not a rabid activist in the field of civil rights."

Bayh interrupted, saying the Judiciary Committee hearing record showed "not one word of positive testimony" that Rehnquist, 47, is personally committed to the advancement of civil rights.

Citing the disclosure of a memorandum on school desegregation, Rehnquist wrote as a law clerk to the late Justice Robert H. Jackson, Bayh said the nominee is "to the right of name whom Rehnquist would

Richard Nixon" on some issues.

As vice president, Mr. Nixon praised the Supreme Court's 1954 school desegregation ruling as the work of a "great Republican chief justice." According to the 1952 memorandum, Rehnquist urged Jackson to reaffirm the separate-but-equal race doctrine because it was "right."

Bayh said Rehnquist's opposition to a proposed model anti-blockbusting law in 1966 also showed him "out of step with the direction the country ought to go."

"The President of the United States is against blockbusting but not William Rehnquist," Bayh charged. Hruska maintained that Rehnquist supported a broad model civil rights law for the states and his actions showed a "change of heart" from earlier civil rights stands.

The most that could be said against Rehnquist, said Hruska, was that he was "concerned about radical changes in the law" that might have unfortunate effects despite the "oble ends" of their drafters.

Hruska said Rehnquist be-

lieved with the first John

Marshall Harlan, grandfather

of the justice of the same

name whom Rehnquist would

replace, that the Constitution should be "color blind," favoring no racial group. The elder Harlan was the lone dissenter in 1896 when the court established the separate-but-equal doctrine — the doctrine Rehnquist said in 1952 should be reaffirmed.

On the Powell confirmation, the lone no vote was cast by Sen. Fred Harris (D-Okl.), who said the Virginian is "an elitist" who lacks compassion for "little people."

(Mount Clipping in Space Below)

Nixon's NominationsTo The Supreme Court

PRESIDENT NIXON has finally nominated his man to fill his "Southern" seat on the United States Supreme Court and the nominee, in the end, turns out to be a major figure in the American bar who apparently has not been scarred up in the long bitter fight over the desegregation of schools.

In the circumstances the prospects for Senate confirmation of Lewis Powell, 64, of Richmond, Va., look promising indeed, as cautious comment by leading senators has suggested. Mr. Powell is a past president of the American Bar Association, past president of the Legal College of Trial Lawyers, and veteran member of a prestigious Virginia law firm.

This is not to say that the judicial philosophy of Lewis Powell is one which is attractive to people who are especially concerned about the rights of accused (and the rights of innocent bystanders) in the processes of law enforcement and justice. From every indication Mr. Powell is a hard "law and order" man who pooh-poohs the dangers of wiretapping and discounts the threat of repressive forces in the American society. However, anyone Richard Nixon appoints is likely to have a hard-line philosophy similar to the President's and, in any case, Mr. Powell is an eminent figure in the national bar whose credentials for the Supreme Court look impeccable.

This is not to suggest for an instant that the U.S. Senate should roll over and play dead upon the thought that it will be spared another ordeal like the Carwell or the Haynsworth affair. We know that the Senate is relieved not to have to consider the nomination of six prospects including Herschel Friday, of Little Rock, who did not get the endorsement of the Judiciary Committee of the Bar Association. For varying reasons the nomination of almost any of the six

Mr. Tolson  
Mr. Felt  
Mr. Rosen  
Mr. Mohr  
Mr. Bishop  
Mr. Miller, ES  
Mr. Callahan  
Mr. Casper  
Mr. Conrad  
Mr. Daibey  
Mr. Cleveland  
Mr. Ponder  
Mr. Bates  
Mr. Tavel  
Mr. Walters  
Mr. Sayars  
Tele. Room  
Miss Holmes  
Miss Gandy

(Indicate page, name of newspaper, city and state.)

PAGE 4A

b6  
b7C

Arkansas Gazette

Little Rock, Ark.

Date: 10-23-71  
 Edition: AM  
 Author:  
 Editor: J. N. Heiskell  
 Title: ARKANSAS GAZETTE

Character:

or

Classification: 80-338-  
 Submitting Office: LR Being Investigated

10-23-71-A  
 NOT RECORDED  
 DEC 16 1971

1-77-2533-

J308

would have stirred a bitter conflict in the Senate. But whatever the known record of a nominee, or potential nominee, it should be put to a searching, detailed scrutiny. The rule applies to a Lewis Powell or a Herschel Friday or whoever is under consideration.

Now we come to the second of the two nominations Mr. Nixon has made to fill the giant shoes of the late Hugo Black and Mr. Justice Harlan. William H. Rehnquist is an assistant attorney general from Arizona and a right-hand man of the attorney general. He is a figure of some prominence, certainly, and he did brilliantly in Stanford Law School. But we suspect that this nomination by Nixon is a bad one because of Rehnquist's role as specialist in the advocacy of wiretapping and of preventive detention of people suspected of intending to commit crime, "no-knock" legislation and other law enforcement measures that are popular in police states.

Rehnquist's nomination has been effusively praised by Senator Eastland of Mississippi. Rehnquist, then, is a man after the heart of both "Cotton Jim" Eastland and John Mitchell, and the Senate hardly needs any more warning than that about the problems in this nomination.

Finally we come to the President's handling of the two nominations, which was abominable.

He sent to the Bar Association a list of six prospects which set off furious controversy and charges that the President was trying to demean or diminish the Court as a co-equal branch of government. The most resentment was stirred by the listing of Senator Robert Byrd of West Virginia, an unrepentant segregationist who has never practiced law, and of a California state judge, a woman, whose density on the bench is reportedly unparalleled in the annals of California jurisprudence. After doing all this to the standing of the Supreme Court, Mr. Nixon, furious with the committee for rejecting his offering, cancels the whole arrangement with the ABA and announces the "surprise" nominations that (presumably) has been held in reserve but not submitted to the bar. And finally, in making his announcement, he delivers an unctuous paean to the Court and a lecture on how we should all respect it!

It was a virtuoso performance all around, one that adorns the record even of Richard Nixon.

LEWIS F. POWELL JR.  
P. O. BOX 1535  
RICHMOND, VIRGINIA 23212

Mr. Tolson  
Mr. Felt  
Mr. Rosen  
Mr. Mohr  
Mr. Bishop  
Mr. Miller, ES  
Mr. Callahan  
Mr. Casper  
Mr. Conrad  
Mr. Dahlberg  
Mr. Cleveland  
Mr. Ponder  
Mr. Bates  
Mr. Tavel  
Mr. Walters  
Mr. Sayars  
Tele. Room  
Miss Holmes  
Miss Gandy

December 1, 1971

80

AFSC

Dear Mr. Hoover:

I write to express my deep appreciate for your warm and generous letter of October 22nd about the President's submission of my name for the Supreme Court.

With high regard.

Sincerely,

Lewis Powell

Lewis Powell

EX-112 REC-59

MET-20

77-121928-56

8 DEC. 8 1971

Honorable J. Edgar Hoover  
Director  
Federal Bureau of Investigation  
United States Department of Justice  
Washington, D. C.

51/223

51 DEC 20 1971

1068

CONFIDENCE  
file

UNITED STATES GOVERNMENT

## *Memorandum*

TO : Mr. Cleveland

DATE: 9-24-71

FROM : L. H. Martin

SUBJECT: PROSPECTIVE CANDIDATES FOR  
U. S. SUPREME COURT VACANCY

Tol-on	
Felt	
Sullivan	
Weller	
Weller, E.S.	
Callahan	
Casper	
Conrad	
Dalhey	
Cleveland	
Pounder	
Rosen	
Tavel	
Walters	
Soyars	
Tele. Room	
Holmes	
Gandy	

With the retirements of Justices Hugo L. Black and John Marshall Harlan of the Supreme Court of the United States, the wire services and the local press have speculated on a successor to these Justices. The names of those most prominently mentioned have been searched through the indices of the Bureau. Hereinafter is set forth biographical data concerning them, as well as information from Bureau files on all available references. A check was made with the Identification Division of the Bureau and no arrest records were located for any of these individuals. The names of these individuals are as follows:

**ACTION:**

For information purposes only. Memos were previously submitted on Representative [REDACTED] and [REDACTED]

Enclosures (8)

- 1 - Mr. Sullivan  
1 - Mr. Dalbey.  
1 - Mr. Bishop  
1 - Mr. Rosen

- 1 - Administrative Review Unit  
Crime Records Division  
1 - Mr. Cleveland  
1 - Mr. Martin 7 b6  
1 - Mr. ██████████ 7 C.

OFL:clk (9)

99-1219  
NOT RECORDED  
87 DEC 21 1971

51 DEC 23 1971

LEWIS FRANKLIN POWELL, JR.  
ATTORNEY  
HUNTON, WILLIAMS, GAY, POWELL, GIBSON LAW FIRM  
700 EAST MAIN STREET  
RICHMOND, VIRGINIA

Powell was born on September 19, 1907, at Suffolk, Virginia. He attended McGuire's University School of Richmond from 1921 until 1925 obtaining a B.S. degree. He received an LL.B degree in 1929 from Washington and Lee University and an LL.M degree from Harvard University in 1932. He married Josephine Rucker on May 2, 1936. Powell served with the U. S. Air Force during World War II and was advanced to the rank of Colonel. Powell has held a number of important positions in the American Bar Association and in 1964, was elected president of the American Bar Association. He is presently associated with the captioned law firm.

b6  
b7C It is noted that in March, 1964, one [REDACTED] University of Michigan, addressed a Conference on National Organizations at Chicago, Illinois, during which he belittled the communist threat by referring to [REDACTED] and his statement that "There are only 8,000 communists in the United States, 1,500 of whom are planted FBI Agents."

b6  
b7D According to our source, [REDACTED] Powell spoke to this group on the following day and, using Dr. [REDACTED] as his authority, allegedly repeated the [REDACTED] statement in his banquet address.

b6  
b7C It was recommended and approved that this matter be taken up with Powell by Inspector H. L. Edwards, who knew Powell personally, to determine the circumstances involved in this matter.

In a personal letter to Inspector Edwards dated April 9, 1964, Mr. Powell expressed surprise that anyone thought he was favorably impressed by Dr. [REDACTED] reference to the FBI. He went on, "I did 'ad lib' a reference to Dr. [REDACTED] statement about the 'maintenance of internal order' I must have been too subtle for your informant as my intention was certainly not to compliment either Dr. [REDACTED] or imply in the slightest my approval of what he said. Instead, although my reference was extremely incidental, I intended to belittle what Mr. [REDACTED] had said."

Powell was approved by the Director to be on the Advisory Committee for Expanded Training Facilities at Quantico, Virginia, on May 26, 1971, (94-66414-2). Members of this Committee have not been advised personally pending an exact date for opening of the Academy (94-66414-4).

77-121928-57

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

UPI-70

(JUSTICES)

WASHINGTON--LEWIS F. POWELL JR. TESTIFIED TODAY HE COULD NOT DISPOSE OF HIS MAJOR FINANCING HOLDINGS WITHOUT TAKING A SUBSTANTIAL TAX LOSS, BUT WOULD DISQUALIFY HIMSELF ON THE SUPREME COURT FROM CONSIDERING CASES INVOLVING COMPANIES IN WHICH HE HAD A FINANCIAL INTEREST.

Powell told the Senate Judiciary Committee that he realized his stock and bond holdings of almost \$1.5 million were "a troublesome problem."

PRESIDENT NIXON'S OTHER NOMINEE TO THE HIGH COURT, WILLIAM H. REHNQUIST, WAS QUESTIONED BY THE COMMITTEE LAST WEEK. THE COMMITTEE IS NOT EXPECTED TO TAKE ACTION ON THE NOMINATIONS FOR AT LEAST SEVERAL DAYS.

IN RESPONSE TO A QUESTION FROM SEN. BIRCH BAY, D-IND., POWELL SAID THAT IN HEARING CASES INVOLVING COMPANIES IN WHICH HE HAS STOCK, HE WOULD RECOGNIZE AS THE GUIDING PRINCIPLE\* A PROPOSED CANON OF THE AMERICAN BAR ASSOCIATION (ABA) THAT SAYS A JUDGE SHOULD DISQUALIFY HIMSELF IF HE HAS ANY FINANCIAL INTEREST IN A LITIGANT APPEARING BEFORE HIM.

POWELL SAID THE MAJOR PORTION OF HIS STOCK HOLDINGS WAS IN THE SPERRY AND HUTCHINSON COMPANY. HE SAID HE COULD NOT DISPOSE OF THIS STOCK WITHOUT SUFFERING A SUBSTANTIAL LOSS BECAUSE OF THE TAX LIABILITY.

SUPREME COURT.

POWELL SAID IN RESPONSE TO BAYH'S QUESTIONS THAT A BLIND TRUST WOULD BE "OF LITTLE ASSISTANCE." BECAUSE THE TRUSTEES WOULD HAVE TO REPORT GAINS OR LOSSES ON HIS INCOME TAX FORMS.

AT THE OUTSET OF THE HEARING, SENS. JAMES O. EASTLAND, D-MISS.,  
THE CHAIRMAN, AND SAM J. ERVIN JR., D-N.C., SAID THEY WOULD VOTE TO  
CONFIRM POWELL.

POWELL APPEARED TO BE HAVING AN EASIER TIME BEFORE THE COMMITTEE THAN REHNQUIST.

11/8--GE1131A

DEC 16 1971

~~WASHINGTON CAPITAL NEWS SERVICE~~

~~59 DE 8-17-1971~~

Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Miller, E.S. \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Dalbey \_\_\_\_\_  
 Cleveland \_\_\_\_\_  
 Ponder \_\_\_\_\_  
 Bates \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

UPI-87

ADD 1 JUSTICES, WASHINGTON (UPI-70)  
 POWELL SAID HE WORKED WITH THE ABA COMMITTEE CONSIDERING THE REQUIREMENTS FOR WIRETAPPING. HE SUPPORTS THE ABA'S STANDARDS, POWELL SAID AND HE ADDED THAT HE "SHARED THE DEEP CONCERNS" OF MANY OVER THE DIFFERENCE BETWEEN DOMESTIC AND FOREIGN SUBVERSION.

BAYH REFERRED POWELL TO AN ARTICLE THE NOMINEE WROTE FOR THE RICHMOND, VA., TIMES DISPATCH IN WHICH HE SAID THE LINE BETWEEN THE TWO TYPES OF SUBVERSION MIGHT BE NARROW.

BAYH ASKED HIM FOR A COMMENT.

"ONE OF THE THINGS THAT DISTRESSES ME MOST IS THE WIDELY PREVAILING VIEW AMONG THE YOUNG THAT AMERICAN IS A REPRESSIVE SOCIETY," POWELL SAID. "ON THE BALANCE, I HAVE A DEEP CONVICTION THAT AMERICAN IS THE FREEST OF ALL LANDS...I DON'T BELIEVE OUR SOCIETY IS REPRESSIVE. I WROTE THE ARTICLE WITH THAT VIEW IN MIND."

"I WOULD NOT CONSIDER THAT A FIXED IMPRESSION, I WAS NOT WRITING A LAW REVIEW ARTICLE," POWELL ADDED. BUT HE SAID IF A CASE AROSE WITH CIRCUMSTANCES RELATING TO THE ONES HE DISCUSSED IN THE ARTICLE, "I MAY VERY WELL DISQUALIFY MYSELF."

BAYH DESCRIBED WHAT HE SAID WERE ARMY "SPYING" EFFORTS THAT INCLUDED "TAKING PICTURES OF ANYBODY CARRYING A SIGN", AND KEEPING PEACE RALLIES UNDER THOROUGH SURVEILLANCE. BAYH ASKED IF THAT WOULD NOT HAVE "A CHILLING EFFECT ON THE EXERCISE OF RIGHTS".

POWELL SAID, "I WOULD CERTAINLY NOT FAVOR THE TYPE OF ACTIVITY YOU DESCRIBED."

BAYH ASKED WHAT CIRCUMSTANCES POWELL FELT WOULD JUSTIFY A WIRETAP, BEYOND ORGANIZED CRIME.

"I WOULD HESITATE REALLY TO TRY TO GET INTO FACTUAL SITUATIONS," POWELL SAID. "I REALIZE THE LINE BETWEEN WHAT IS PURELY A FOREIGN SITUATION AND DOMESTIC SECURITY SITUATION MIGHT BE DIFFICULT TO DRAW IN SOME CASES."

BUT HE ADDED THE STATUTE NOW OUTLINES REQUIREMENTS INCLUDING PROBABLE CAUSE, THE FACT EVIDENCE COULD NOT BE OBTAINED ANY OTHER WAY, AND THAT THE RESULTS WOULD HAVE TO BE REPORTED.

"I DON'T THINK ANYBODY WOULD SUPPORT UNCONSTITUTIONAL SURVEILLANCE AGAINST CITIZENS JUST BECAUSE THEY OPPOSE THE GOVERNMENT," POWELL SAID.

11-8 BP1218PES

WASHINGTON CAPITAL NEWS SERVICE

F B I

Date: 10/23/71

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)

Via TELETYPE IMMEDIATE  
(Priority)

TO: SAC, RICHMOND  
FROM: SAC, NORFOLK (77-3497)  
LEWIS FRANKLIN POWELL, JR., DAPCI, JUSTICE, U. S. SUPREME  
COURT. BUDED WEDNESDAY NOON, NEXT, WITHOUT FAIL. NO DELAY  
WILL BE TOLERATED.

P  
RE BUREAU TELETYPE TO RICHMOND ET AL OCTOBER TWENTY TWO  
LAST.

NO BIRTH RECORDS MAINTAINED AT SUFFOLK, VA.  
RICHMOND VERIFY POWELL'S BIRTH AT VIRGINIA BUREAU OF VITAL  
STATISTICS, RICHMOND, VIRGINIA.

-P-

① - AM COPY TO BUREAU  
1 - NORFOLK

JBM:mlb  
(2)

77-12192-58  
NOT RECORDED  
2 OCT 27 1971

Approved: 54 JAN 11 1972 Sent \_\_\_\_\_ M Per \_\_\_\_\_  
Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 23 1971

TELETYPE

NR 001 RH PLAIN

1:45PM URGENT 10-23-71

TO DIRECTOR

ALEXNADRIA

BALTIMORE

BIRMINGHAM

CHICAGO

JACKSONVILLE

LOS ANGELES

MIAMI

NEW YORK CITY

NORFOLK

ST. LOUIS

WFO

FROM RICHMOND (77-11979)

LEWIS FRANKLIN POWELL, JR., DAPLI, JUSTICE, U.S. SUPREME  
COURT, BUDED NOON WEDNESDAY (OCT. TWENTY-SEVEN NEXT) WITHOUT  
FAIL. NO DELAY WILL BE TOLERATED.

REC 9

59

EX-103  
cc les hong

TELETYPE TO:

ALL OFC

55 JAN 13 1972

f20

Mr. Tolson
Mr. Felt
Mr. Rosen
Mr. Mohr
Mr. Bishop
Mr. Miller, ES
Mr. Callahan
Mr. Casper
Mr. Conrad
Mr. Farby
Mr. Cleveland
Mr. Fender
Mr. Bates
Mr. Tavel
Mr. Walthers
Mr. Sayare
Tels. Room
Miss Holmes
Miss Gandy

MR MARTIN  
ROCK 1970

PAGE TWO

RE BUREAU TELETYPE OCT. TWENTY-TWO LAST.

APPLICANT INTERVIEWED OCT. TWENTY-TWO LAST, BY SAC,  
RICHMOND, AND FURNISHED FOLLOWING BACKGROUND INFORMATION  
PERTINENT TO RECEIVING OFFICES:

APPLICANT BORN SEPT. NINETEEN, NINETEEN ZERO SEVEN, AT  
SUFFOLK, VA.

RELATIVES: FATHER, LEWIS F. POWELL, THE PRESTWOOD  
APTMENTS, RICHMOND; MOTHER-IN-LAW, MRS. MARVIN P. RUCKER  
ONE TWO THREE EIGHT ROTHESAY ROAD, RICHMOND; WIFE JOSEPHINE  
PIERCE RUCKER POWELL, ONE TWO THREE EIGHT ROTHESAY ROAD,  
RICHMOND; CHILDREN, MRS. [REDACTED]

[REDACTED] NEW YORK; MRS. [REDACTED]

b6  
b7c

[REDACTED] BRUSSELS SIX, BELGIUM; MRS. [REDACTED]

[REDACTED] MANHATTAN BEACH, CALIF., [REDACTED]

[REDACTED] LEXINGTON, VA., SOPHOMORE AT WASHINGTON LEE  
UNIVERSITY, LEXINGTON, VA., BROTHER [REDACTED]

[REDACTED] RICHMOND, VA., SISTERS, MRS. [REDACTED]

[REDACTED] WILLIAMSBURG *VA*

PAGE THREE

VA.; MRS. [REDACTED]

[REDACTED] ALA., BROTHERS-IN-LAW, DR. [REDACTED]

[REDACTED] RICHMOND, VA., DR. [REDACTED]

[REDACTED] RICHMOND, A MOTHER

b6  
b7c

MARY LEWIS POWELL (NEE GWATHMEY), DIED NINETEEN SIXTY-FOUR,  
RICHMOND, VA.

RESIDENCES: ONE TWO THREE EIGHT ROTHESAY ROAD,  
RICHMOND SINCE NINETEEN FORTY-FIVE.

SOCIAL SECURITY NUMBER TWO TWO THREE - ZERO FIVE-SIX FOUR NINE THREE. MAY, FORTH-TWO, TO FEB., FORTY-SIX, U.S. ARMY AIR FORCE, SN ZERO NINE ZERO THREE SIX SEVEN NINE, SERVED THIRTY-THREE MONTHS IN EUROPEAN AND NORTH AFRICAN AREAS RISING FROM LIEUTENANT TO FULL COLONEL, AWARDED, LEGION OF MERIT, BRONZE STAR AND FRANCE'S CROIX DE GUERRE WITH PALM.

EDUCATION: WASHINGTON AND LEE UNIVERSITY, BS DEGREE, MAGNA CUM LAUDE, ODK, PHI BETA KAPPA, AND PHI DELTA PHI, LLB NINETEEN THIRTY-ONE. RECEIVED HONORARY DOCTOR OF LAW DEGREES (LLD) HAMPDEN SYDNEY COLLEGE, HAMPDEN SYDNEY, VA., NINETEEN FIFTY-NINE; WASHINGTON AND LEE UNIVERSITY, NINETEEN SIXTY; COLLEGE OF WILLIAM AND MARY, NINETEEN SIXTY-FIVE; UNIVERSITY

PAGE FOUR

OF FLORIDA, NINETEEN SIXTY-FIVE AND UNIVERSITY OF RICHMOND,  
NINETEEN SEVENTY.

EMPLOYMENT: SENIOR PARTNER AND MEMBER OF FIRM  
OF HUNTON WILLIAMS, GAY, POWELL AND GIBSON, SINCE NINETEEN THIRTY-  
FIVE, RICHMOND, VA. EMPLOYED DURING SUMMERS OF TWENTY-FIVE  
AND POSSIBLY TWENTY-SEVEN DAVID M. LEA COMPANY, NOW  
KNOWN AS LEE INDUSTRIES, RICHMOND; TWENTY-SIX, SUMMER MONTHS,  
BRITISH TOBACCO COMPANY, RICHMOND, WHICH COMPANY NOW DEFUNCT;  
SUMMER TWENTY-EIGHT UNEMPLOYED AND RESIDED WITH PARENTS IN  
RICHMOND; EMPLOYED SUMMER MONTHS POSSIBLY IN EARLY THIRTIES FOR  
DEPARTMENT OF PUBLIC WORKS, RICHMOND; THIRTY-TWO TO THIRTY-  
FIVE, UPON GRADUATION EMPLOYED WITH LAW FIRM OF CHRISTIAN,  
BARTON AND PARKER, RICHMOND; THIRTY-EIGHT TO FORTY, PART-TIME  
INSTRUCTOR IN ECONOMICS, UNIVERSITY OF RICHMOND.

PERSONAL PHYSICIANS, DR. [REDACTED] AND DR. [REDACTED]  
[REDACTED] RICHMOND, EYE DOCTOR. POWELL STATES HE  
HAS HAD CHRONIC EYE PROBLEMS.  
*b6  
b7c*

FOREIGN TRAVEL: U.S. ARMY AIR FORCE, FORTY-TWO TO  
FORTY-SIX; NUMEROUS TRIPS TO EUROPE INCLUDING A TRIP DURING  
SUMMER OF THIRTY WHILE LAW STUDENT; NINETEEN FIFTY-EIGHT

PAGE FIVE

VISITED RUSSIA WITH DELIGATION REPRESENTING AMERICAN BAR ASSOCIATION; TRIP TO AFRICA ON PERSONAL SAFARI DATE NOT RECALLED; VISIT TO SOUTHEAST ASIA AS MEMBER OF SUBCOMMITTEE OF BLUE RIBBON DEFENSE PANEL, YEAR NOT RECALLED. PASSPORT NUMBER K SEVEN SEVEN ONE SIX EIGHT ZERO.

BAR MEMBERSHIPS: VA. STATE BAR, RICHMOND; AMERICAN BAR ASSOCIATION, CHICAGO, PRESIDENT SIXTY-FOUR TWO SIXTY-FIVE; AMERICAN COLLEGE OF TRAIL LAWYERS, ONE ZERO EIGHT EIGHT NINE WILSHIRE BLVD. LOS ANGELES, CALIF., PRESIDENT SIXTY-NINE TO SEVENTY; AMERICAN BAR FOUNDATION, ONE ONE FIVE FIVE EAST SIXTY STREET, CHICAGO, PRESIDENT SIXTY-NINE TO SEVENTY; THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, NEW YORK CITY; AMERICAN LAW INSTITUTE, FOUR THREE FIVE WEST ONE ONE SIX NEW YORK CITY; MEMBER NATIONAL COMMITTEE ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, APPOINTED BY PRESIDENT JOHNSON, SIXTY-FIVE TO SEVENTY; HONORARY BENCHER OF LINCOLN'S INN, SEVENTY, LONDON, ENGLAND; AMERICAN JUDICATUR SOCIETY, ONE ONE FIVE FIVE E. SIXTY STREET, CHICAGO; NATIONAL LEGAL AIDE AND DEFENDER ASSOCIATION, ONE ONE FIVE FIVE EAST SIXTY ST., CHICAGO, VICE-PRESIDENT, SIXTY-FOUR TO SIXTY-FIVE;

PAGE SIX

SOCIETY OF CINCINNATI, ANDERSON HOUSE, TWO ONE ONE EIGHT MASSACHUSETTS, WASHINGTON, D.C.; THE SOCIETY OF COLONIAL WARS, RICHMOND, VA., METROPOLITAN CLUB, WASHINGTON, D.C.

CO-ARTHOR "ADDITIONAL VIEWS" APPENDED TO THE REPORT OF THE COMMISSION.

POWELL ADVISED HE IS AN INDEPENDENT DEMOCRAT.

ARRESTS POWELL ADVISED HE HAS NO ARREST AND NOTHING PRESENTLY UNDER INVESTIGATION FOR ANY POSSIBLE VIOLATION OF CRIMINAL STATUTES AND KNOWS OF NO TAX LIENS ON ANY PROPERTY HE OWNS. HE WAS SUED IN SIXTY-FOUR OR SIXTY-SEVEN BY ONE ██████████ WINCHESTER, VA., INVOLVING POLITICAL CONSPIRACY AND PLAINTIFF SUED FOR ONE BILLION DOLLARS. SUIT DISMISSED.

*kg/btc*

POWELL HAS WRITTEN NUMBER OF ARTICLES FOR AMERICAN BAR ASSOCIATION AND LAW REVIEWS TOO NUMEROUS TO RECALL. HE HAS MADE NUMEROUS SPEECHES, SOME OF WHICH HE STATES COULD BE CONSTRUED AS POSSIBLY BEING CONTROVERSIAL. HE HAS FURNISHED COPIES OF SOME SPEECHES, WHICH WILL BE FORWARDED TO THE BUREAU.

POWELL HAS REAL ESTATE HOLDINGS IN RICHMOND, POWHATAN COUNTY, CHESTERFIELD COUNTY, VA.; AND HAS AN INTEREST OR

PAGE SEVEN

OWNERSHIP OF A CONDOMINIUM KNOWN AS THE "HORIZON", ONE THREE  
SEVEN FIVE SOUTH OCEAN, DELRAY BEACH, FLA.

HE IS DIRECTOR OF NUMEROUS VIRGINIA FIRMS.

LEADS:

ALL OFFICES DO NOT CONDUCT NEIGHBORHOOD INVESTIGATION.  
APPROPRIATE PERSONS SHOULD BE INTERVIEWED TO DETERMINE  
APPLICANT'S LEANINGS TOWARD CIVIL RIGHTS MATTERS AND HIS  
JUDICIAL ABILITY AND TEMPERMENT. NEWS MORGUES WHEREVER  
HE HAS LIVING, WORKED, ATTENDED SCHOOL OR MADE PUBLIC SPEECHES  
AND IF NO MORGUES MAINTAINED, CONSIDER DISCRETE INTERVIEW  
OF EDITORS OR PUBLISHERS. DETERMINE IF ORGANIZATIONS OF  
WHICH HE IS A MEMBER OR REAL ESTATE WHICH HE OWNS HAVE  
RESTRICTIONS IN REGARD TO RACE OR RELIGION.

ALL OFFICES FOLLOW COVES INSTRUCTIONS AND REFER TO  
PAGE TWO TWO ZERO AND TWO TWO ONE, PART, THREE, FBI HANDBOOK  
WITH SPECIFIC REFERENCE TO PARPGRAPH G, TWO TWO ONE. ALL  
SIX ITEMS MUST BE COMPLETELY COVERED. SET OUT LEADS BY  
TELEPHONE. ADVISE BUREAU OF AUXILIARY OFFICES BY TELETYPE.

PERTINENT DOCUMENTS OBTAINED MUST BE ATTACHED TO REPORT  
WITH RESULTS OF INVESTIGATION ORGANIZED IN SAME SEQUENCE AS

PAGE EIGHT

SET FORTH IN HANDBOOD ACCCOMPANIED BY A TABLE OF CONTENTS.  
BUREAU INSTRUCTS ALL OFFICES ANSWER PRESS INQUIRIES WITH  
"NO OCMMENT". EACH OFFICE SUBMIT FIVE COPIES OF REPORT.  
LENGTHY REPORTS TO BE PLACED ON COMMERCIAL AIRLINES TO  
NATIONAL AIRPORT, WASHINGTON, D.C. AND WFO NOTIFIED  
TELEPHONICALLY TO PICK UP. SHORT REPORTS MAY BE FURNISHED  
BY FACSIMILE MACHINE.

ALEXNADRIA AT ALEXANDRIA, VA.

INTERVIEW [REDACTED] EDVA, [REDACTED]

JUDGE [REDACTED] EDVA, AND JUDGE [REDACTED]

[REDACTED] U.S. FOURTH CIRCUIT COURT OF APPEALS, RETIRED.

BIRMINGHAM AT BREWTON, ALA.

VERIFY BY ACTIVE INVESTIGATION AND CONDUCT NECESSARY  
INVESTIGATION REGARDING SISTER MRS. [REDACTED]

b6/b7C

CHICAGO AT CHICAGO ILL.

WILL VERIFY MEMBERSHIPS IN BAR ASSOCIATIONS MENTIONED  
HEREIN.

JACKSONVILLE AT GAINESVILLE, FLA.

WILL VERIFY AWARDING OF LLD DEGREE TO POWELL IN SIXTY-FIVE  
AT UNIVERSITY OF FLA.

PAGE NINE

LOS ANGELES AT MANHATTAN BEACH CALIF.

WILL VERIFY RESIDENCE OF SISTER MRS. [REDACTED]

b6  
b7C

[REDACTED] AND CONDUCT NECESSARY INVESTIGATION.

MIAMI AT DELRAY BEACH, FLA.

WILL VERIFY AND ASCERTAIN ANDY RESTRICTIVE COVENANTS ON REAL ESTATE HOLDINGS AT ONE THREE SEVEN FIVE SOUTH OCEAN.

NEW YORK CITY AT NEW YORK

VERIFY POWELL'S MEMBERSHIP IN THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK AND ALSO CONFIRM MEMBERSHIP IN THE CENTURY AND UNIVERSITY CLUBS BOTH BELIEVED TO BE NEW YORK CITY.

VERIFY RESIDENCE AT DAUGHTER, MRS. [REDACTED]

[REDACTED] NEW YORK CITY,

AND CONDUCT NECESSARY INVESTIGATION.

b6  
b7C

NORFOLK AT CHUCKATUCK, VA.

INTERVIEW [REDACTED] OF VA., [REDACTED]

AT NORFOLK, VA.

INTERVIEW [REDACTED]

AT WILLIAMSBURG, VA.

CONTACT [REDACTED] OF COLLEGE OF WILLIAM AND MARY

PAGE TEN

[REDACTED] TO CONFIRM ANY INFORMATION HE HAS REGARDING POSITION OF TRUSTEE HELD BY POWELL AT THAT COLLEGE AND AWARDING OF LLD DEGREE ABOUT 1970.

b6  
b7c

CONFIRM POSITION OF GENERAL COUNSEL FOR COLONIAL WILLIAMS BURG.

WILL VERIFY RESIDENCE OF SISTER, MRS. [REDACTED]

[REDACTED] WILLIAMSBURG

b6  
b7c

ST. LOUIS AT ST. LOUIS , MO.

WILL CHECK NRPC-M REGARDING POWELL, SERIAL NO. ZERO NINE ZERO THREE SIX SEVEN NINE.

WFO AT WASHINGTON, D.C.

WILL CONTACT [REDACTED]

b6/b7c

WILL CHECK NECESSARY RECORDS STATE DEPARTMENT REGARDING FOREIGN TRAVEL BY POWELL.

WILL VERIFY MEMBERSHIP IN METROPOLITAN CLUB. P.

END

A

REW FBI WASH DC

XXXXXX  
XXXXXX  
XXXXXX

**FEDERAL BUREAU OF INVESTIGATION**  
**FOIPA**  
**DELETED PAGE INFORMATION SHEET**

\_\_\_\_ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

**Section 552**

- (b)(1)  
 (b)(2)  
 (b)(3)  


---


---


---
- (b)(4)  
 (b)(5)  
 (b)(6)

- (b)(7)(A)  
 (b)(7)(B)  
 (b)(7)(C)  


---


---


---
- (b)(7)(D)  
 (b)(7)(E)  
 (b)(7)(F)

- (b)(8)  
 (b)(9)

- (d)(5)  
 (j)(2)  
 (k)(1)  


---


---


---
- (k)(2)  
 (k)(3)  
 (k)(4)  


---


---


---
- (k)(5)  
 (k)(6)  
 (k)(7)

- Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.
- Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

\_\_\_\_ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

\_\_\_\_ Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

10 Pages were not considered for release as they are duplicative of 77-121928-59

\_\_\_\_ Page(s) withheld for the following reason(s):  


---


---

- The following number is to be used for reference regarding these pages:

77-121928-60

XXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X for this page X  
XXXXXXXXXXXXXXXXXXXX

XXXXXX  
XXXXXX  
XXXXXX

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 23 1971 *u/Jan*

TELETYPE

NR 002RH PLAIN

4:10PM URGENT 10-23-71 DCB

TO DIRECTOR

BOSTON

FROM RICHMOND (77-11979)

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

MR [REDACTED]  
ROOM 1246

b6  
b7C

LEWIS FRANKLIN POWELL, JR., DAPI, JUSTICE, U.S. SUPREME  
COURT, BUDED NOON WEDNESDAY (OCT. TWENTY-SEVEN, NEXT)

P WITHOUT FAIL. NO DELAY WILL BE TOLERATED.

RE BUREAU TELETYPE OCT. TWENTY-TWO LAST, TO RICHMOND,  
ETC., AND RICHMOND TELEPHONE CALL TO BOSTON OCT. TWENTY-THREE,  
INSTANT.

77-121928-61

IN REVIEWING CURRENT EDITION OF "WHO'S WHO IN AMERICA"  
BOSTON WILL NOTE THAT APPLICANT RECEIVED LL.M. AT HARVARD UNIVERSITY, BOSTON, MASS., IN THIRTY-TWO.

NOT RECORDED  
10 DEC 6 1971

BOSTON AT BOSTON MASS. WILL VERIFY AWARD OF LL.M. TO  
APPLICANT AT HARVARD IN THIRTY-TWO. P.

END

*Be told 10/24 to check Credit Crim  
& Newpaper morgues RPL*

54 JAN 11 1972

*1cc destroyed*

F B I

Date: 10/23/71

PLAINTEXT

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)

Via TELETYPE

URGENT

(Priority)

007

TO: DIRECTOR (MAIL) AND SACS, RICHMOND, BOSTON, ST. LOUIS  
 CHICAGO, NEW YORK, CHARLOTTE, BALTIMORE, NEW ORLEANS,  
 NORFOLK, JACKSONVILLE, ALEXANDRIA, LOS ANGELES,  
 PITTSBURGH, NEWARK, COLUMBIA AND SAN FRANCISCO

VIA WASHINGTON  
 FROM: SAC, WFO

COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME  
 COURT OF THE UNITED STATES. BUDED: WEDNESDAY NOON, WITHOUT  
 FAIL, NO DELAY TOLERATED.

CORRECT CHARACTER IS AS CAPTIONED ABOVE. PREVIOUSLY  
 CARRIED AS JUSTICE, UNITED STATES SUPREME COURT.

b6 b7C INVESTIGATION REVEALS THAT [REDACTED] ATTORNEY,  
 DURHAM, NORTH CAROLINA, MEMBER [REDACTED] 7-121828-62  
 AMERICAN [REDACTED] NOT RECORDED  
 BAR ASSOCIATION, KNOWS APPOINTEE WELL.

10 DEC 8 1971

WHITE HOUSE RECORDS INDICATE APPOINTEE APPOINTED AUGUST [REDACTED]  
 ELEVEN, SIXTYFIVE, AS MEMBER PRESIDENT'S COMMISSION ON  
 LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE.

SEARCHED [REDACTED] INDEXED [REDACTED]  
 SERIALIZED [REDACTED] FILED [REDACTED]

11:5: Bureau  
 I WFO  
 [Signature]

Oct 23 4 52 PM '71

LWS:1ms

FBI-WASH. D. C.

Approved: [Signature] Sent: [REDACTED] M Per: [REDACTED]

54 JAN Special Agent in Charge

★ U. S. GOVERNMENT PRINTING OFFICE: 1971-413-135

FBI

Date:

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via \_\_\_\_\_  
(Priority)

PAGE TWO

b6 b7C  
ABOVE COMMISSION NO LONGER EXISTS AND FORMER [REDACTED][REDACTED] WAS [REDACTED] LAST KNOWN TO BE A  
PROFESSOR AT HARVARD UNIVERSITY, CAMBRIDGE, MASSACHUSETTS.

CHARLOTTE INTERVIEW [REDACTED] BOSTON INTERVIEW

b6 b7C  
[REDACTED] ST. LOUIS CHECK FEDERAL RECORD CENTER. BOSTON  
CHARLOTTE AND ST. LOUIS RECEIVED ORIGINAL COMMUNICATION IN  
THIS MATTER AND WERE TELEPHONICALLY ADVISED OF THIS INFORMATION  
THIS DATE.

P.

Approved: \_\_\_\_\_ Sent \_\_\_\_\_ M Per \_\_\_\_\_  
Special Agent in Charge

★ U. S. GOVERNMENT PRINTING OFFICE: 1971-419-135

F B I

Date: 10/23/71

## PLAINTEXT

(Type in plaintext or code)

Transmit the following in \_\_\_\_\_

TELETYPE

URGENT

Via \_\_\_\_\_

(Priority)

OOB

TO: DIRECTOR (MAIL) AND SACS, ALEXANDRIA, NORFOLK AND

RICHMOND

FROM: SAC, WFO (77-NEW)

COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME  
 COURT OF THE UNITED STATES. BUDED: WEDNESDAY NOON WITHOUT  
 FAIL, NO DELAY WILL BE TOLERATED.

THIS CONFIRMS WFO TELEPHONE CALL TO YOUR OFFICES  
 OCTOBER TWENTYTHREE, SEVENTYONE.

INQUIRY UNITED STATES CONGRESS REVEALS FOLLOWING U.S.  
 REPRESENTATIVES CAN BE CONTACTED IN THEIR HOME DISTRICTS:

ALEXANDRIA INTERVIEW [REDACTED]

RICHMOND INTERVIEW [REDACTED]

[REDACTED]  
AND WATKINS M. ABBITT.

1 - Bureau  
 1 - WFO

JER:lms

SEARCHED INDEXED

SERIALIZED FILED

Oct 23 4 51 PM '71

77-12172-63  
FBI - WASHINGTON D.C.

10 DEC 8 1971

Appro 54 JAN 14 1972  
 Special Agent in Charge

Sent 6:51 M Per

★ U. S. GOVERNMENT PRINTING OFFICE: 1971-413-136

F B I

Date:

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)

Via \_\_\_\_\_  
(Priority)

WFO 77-NEW  
PAGE TWO

NORFOLK INTERVIEW [REDACTED] AND [REDACTED]

b6  
b7c

P.

Approved: \_\_\_\_\_ Sent: \_\_\_\_\_ M Per: \_\_\_\_\_  
Special Agent in Charge

XXXXXX  
XXXXXX  
XXXXXX

**FEDERAL BUREAU OF INVESTIGATION**  
**FOIPA**  
**DELETED PAGE INFORMATION SHEET**

\_\_\_\_ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

**Section 552**

- (b)(1)  
 (b)(2)  
 (b)(3)  


---


---


---

  
 (b)(4)  
 (b)(5)  
 (b)(6)

- (b)(7)(A)  
 (b)(7)(B)  
 (b)(7)(C)  
 (b)(7)(D)  
 (b)(7)(E)  
 (b)(7)(F)  
 (b)(8)  
 (b)(9)

- (d)(5)  
 (j)(2)  
 (k)(1)  
 (k)(2)  
 (k)(3)  
 (k)(4)  
 (k)(5)  
 (k)(6)  
 (k)(7)

- Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.  
 Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

\_\_\_\_ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

\_\_\_\_ Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

2 \_\_\_\_ Pages were not considered for release as they are duplicative of 77-121928-62

\_\_\_\_ Page(s) withheld for the following reason(s):  


---


---

- The following number is to be used for reference regarding these pages:  
77-121928-64

XXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X for this page X  
XXXXXXXXXXXXXXXXXXXX

XXXXXX  
XXXXXX  
XXXXXX

*W.G.*  
10/24/71

PLAINTEXT

TELETYPE

NITEL

TO SACS RICHMOND  
NORFOLK  
BOSTON  
JACKSONVILLE  
ST. LOUIS  
ALEXANDRIA  
CHICAGO  
WASHINGTON FIELD  
NEW YORK  
LOS ANGELES

CHARLOTTE  
PITTSBURGH  
BALTIMORE  
NEWARK  
NEW ORLEANS  
COLUMBIA  
SAN FRANCISCO  
BIRMINGHAM  
MIAMI

PERSONAL ATTENTION

FROM DIRECTOR FBI

LEWIS FRANKLIN POWELL, JR., DAPLI - JUSTICE, SUPREME  
COURT OF THE UNITED STATES; BUDED, WEDNESDAY NOON, NEXT,  
WITHOUT FAIL. NO DELAY WILL BE TOLERATED.

IF REPORT SUBMITTED BY FACSIMILE MACHINE, REPORT SHOULD  
NOT EXCEED THREE PAGES.

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

107-8-1971

548PM Mba  
TELETYPE

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Matters \_\_\_\_\_  
Room \_\_\_\_\_

JAR:mjf mjf  
(3)

54 JAN 11 1972

MAIL ROOM  TELETYPE UNIT

10/25/71

PLAINTEXT

TELETYPE

URGENT

TO SACS NORFOLK  
BOSTON  
JACKSONVILLE  
ST. LOUIS  
CHICAGO  
NEW YORK  
LOS ANGELES  
CHARLOTTE  
PITTSBURGH  
BALTIMORE  
NEWARK  
NEW ORLEANS  
COLUMBIA  
SAN FRANCISCO  
BIRMINGHAM  
MIAMI

PERSONAL ATTENTION

FROM DIRECTOR FBI

LEWIS FRANKLIN POWELL, JR., DAPLI, JUSTICE, SUPREME COURT OF THE UNITED STATES; BUDED, WEDNESDAY NOON, NEXT, WITHOUT FAIL. NO DELAY WILL BE TOLERATED.

REBUTEL OCTOBER TWENTY-FOUR, LAST.

ALL OFFICES PALNNING TO UTILIZE FACSIMILE MACHINE TO TRANSMIT REPORTS TO BUREAU ARE INSTRUCTED TO IMMEDIATELY COVER ALL LEADS, REDUCE COVERAGE TO REPORT FORM AND TRANSMIT TO BUREAU BY FACSIMILE MACHINE AS SOON AS POSSIBLE. DO NOT HOLD TILL LAST MINUTE TO AVOID CONGESTION IN UTILIZATION OF EXISTING EQUIPMENT. USE ORIGINAL PAGES OF REPORTS ONLY IN TRANSMITTING TO BUREAU

SO THAT LEGIBLE COPIES ARE RECEIVED AT BUREAU.

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dolbeay \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

JAR:bsh  
(3)

54 JAN 11 1972

MAIL ROOM  TELETYPE UNIT

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

TELETYPE

RETURN TO MR. REILLY, ROOM 1250

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

TELETYPE

WXA

NR 002 RH PLAIN

4:08 PM URGENT 10-25-71 RSM

TO DIRECTOR (ALL OFFICES VIA WASHINGTON)

ATLANTA

BUTTE

CINCINNATI

HOUSTON

LITTLE ROCK

MEMPHIS

NEW YORK

PHILADELPHIA

PHOENIX

TAMPA

FROM RICHMOND (77-11979)

P COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME COURT OF THE  
UNITED STATES, BUDED WED. NOON, NEXT, WITHOUT FAIL, NO DELAY  
TOLERATED.

END PAGE ONE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Daibey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

MR.  
ROOM 1

b6  
b7C

77-121929-67

NOT RECORDED

10 DEC 8 1971.

1cc destroyed

ALL OFFICES  
54 JAN 11 1972

PAGE TWO

RH 77-11979

RE RICHMOND TELCALL THIS DATE.

MR. POWELL WELL KNOWN BY THE FOLLOWING JUDGES,

b6  
b7c

[REDACTED] SECOND U. S. CIRCUIT AND [REDACTED] BOTH NYC.  
[REDACTED] BILLINGS, MONTANA. [REDACTED] PHOENIX,  
[REDACTED] ARIZONA.

HE IS WELL KNOWN TO THE FOLLOWING ATTORNEYS:

[REDACTED] LITTLE ROCK. [REDACTED] AMERICAN BAR ASSOC.,  
HOUSTON. [REDACTED] PHILADELPHIA. [REDACTED]  
AND [REDACTED] BOTH MEMPHIS. [REDACTED] NYC.  
AND [REDACTED] ATLANTA. [REDACTED] COLUMBUS, OHIO.  
[REDACTED] TAMPA.

b6  
b7c

RECEIVING OFFICES WILL IMMEDIATELY INTERVIEW THOSE  
INDIVIDUALS LOCATED IN THEIR TERRITORY. -P-

E N D

EBR FBI WASH DC

R RELAY

NR 12-11  
1/2

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, ES \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dalbey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Tavel \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

MR [REDACTED]  
ROOM 1246

NR 003 RH PLAIN

4:06 PM NITEL 10-25-71 RSM

TO DIRECTOR

WFO

FROM RICHMOND (77-11979) 1P

b6  
b7C

[REDACTED]

D  
COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE SUPREME COURT OF  
UNITED STATES, BUDED WED. NOON, WITHOUT FAIL, NO DELAY  
TOLERATED.

e  
RE WFO TEL, OCT. TWENTYTHREE LAST, AND RICHMOND TELCALL TO  
WFO, THIS DATE.

INVESTIGATION BY RICHMOND DISCLOSES [REDACTED]

[REDACTED] LEFT HIS COUNTRY HOME EARLY THIS MORNING AND NEIGHBORS  
PRESUME HE HAS RETURNED TO HIS RESIDENCE AT ANNANDALE, VA. 77-12132-68

b6  
b7C  
WFO INTERVIEW [REDACTED] -P-

END

54 JAN 1 1972

1cc destroyed

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, ES \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dalbey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Tavel \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

XNR 004 RH PLAINPM NITEL 10-25-71 RSM

TO DIRECTOR

BOSTON

FROM RICHMOND (77-11979) 1P

MR. [REDACTED]  
ROOM 1246 ✓

b6  
b7C

COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE SUPREME COURT OF  
UNITED STATES, BUDED WED. NOON, WITHOUT FAIL, NO DELAY  
TOLERATED.

P

RE RICHMOND TELCALL TO BOSTON THIS DATE.

77-121928-64

[REDACTED] COMMUNITY SERVICES, SOUTHERN

STATES COOPERATIVE, RICHMOND, VA., HAS FURNISHED FAVORABLE  
RECOMMENDATIONS TO THE ATTORNEY GENERAL'S OFFICE REGARDING  
MR. POWELL SINCE NINETEEN SIXTYNINE.

INQUIRY AT RICHMOND DISCLOSES MR. [REDACTED] CURRENTLY WITH  
HIS DAUGHTER, MRS. [REDACTED] WESTOVER

b6  
b7C

AFB, WESTOVER, MASS. [REDACTED] b6/b7C  
BOSTON INTERVIEW MR. [REDACTED] -P-

END

cc destroyed

54 JAN 11 1972

MA  
10/25/71  
65C

B

NR 001 NF PLAIN

11:29 AM IMMEDIATE 10-25-71 RMS

TO DIRECTOR / FBI

SAC, RICHMOND

FROM SAC, NORFOLK (77-3497) P

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, ES \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dahl \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Tavel \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Sayars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

✓ ROOM 124

b6  
b7c

O  
COVES, LEWIS FRANKLIN POWELL, JR., DAPLI, JUSTICE, SUPREME  
COURT OF THE UNITED STATES. BUDED WEDNESDAY NOON NEXT WITHOUT  
FAIL. NO DELAY WILL BE TOLERATED.

P

RE NORFOLK TELEPHONE CALL TO RICHMOND THIS DATE.

[REDACTED] ADVISED

b6  
b7c

THIS DATE, [REDACTED] WILL BE AT JOHN MARSHALL HOTEL, RICHMOND, VA.,  
ALL DAY. [REDACTED] CAN BE REACHED THROUGH [REDACTED] AT THIS  
HOTEL.

RICHMOND: AT JOHN MARSHALL HOTEL CONTACT [REDACTED] RE  
APPLICANT.

b6/b7c

E N D

MSE

FBI WASH DC

ccedestroyed 77-121928-70

54 JAN 1 1972

*WFO*

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

NR 52 NF PLAIN

3:40 PM URGENT 10-25-71 VLC

TO DIRECTOR

WFO

FROM NORFOLK (77-3497) IP

*O*  
LEWIS FRANKLIN POWELL, JR., DAPLI, JUSTICE, SUPREME COURT OF  
THE UNITED STATES; BUDED, WEDNESDAY NOON, NEXT, WITHOUT FAIL.  
NO DELAY WILL BE TOLERATED.

✓  
MR [REDACTED]  
ROOM 1246

b6  
b7c

INVESTIGATION HAS DETERMINED REPRESENTATIVE [REDACTED]  
IS IN WASHINGTON, D. C. IT IS POSSIBLE HE WILL DEPART WASHINGTON,  
D. C., FOR TRIP TO LOUISIANA, OCTOBER TWENTY-SIX NEXT  
[REDACTED] EXACT WHEREABOUTS CAN BE ASCERTAINED FROM HIS [REDACTED]

[REDACTED] AT [REDACTED] WDC OFFICE, TELEPHONE [REDACTED]

*b6  
b7c*  
WFO AT WASHINGTON, D. C., CONTACT [REDACTED] FOR [REDACTED] WHEREABOUTS  
AND SET OUT LEADS TO INTERVIEW RE POWELL.

77-121828-71

E N D

EBR FBI WASH DC

*1cc destroyed*

JAN 8 1971

54 JAN 11 1972

NA  
10/25/71  
on

MR 301 RH PLAIN

11:37 AM URGENT

10-25-71 JLG

TO DIRECTOR, FBI

WFO

FROM RICHMOND (77-11979) IP

LEWIS FRANKLIN POWELL, JR., DAPLI, JUSTICE, U.S. SUPREME COURT. BUDED: WEDNESDAY, NOON, NEXT. WITHOUT FAIL. NO DELAY WILL BE TOLERATED.

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Daibey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

P RE RICHMOND TELETYPE TO BUREAU, OCTOBER TWO THREE, LAST.

IN NINETEEN SIXTYEIGHT, APPLICANT RECEIVED AWARD FROM OFFICE OF ECONOMIC OPPORTUNITY, CONCERNING HIS CONTRIBUTION OF LEGAL SERVICES FOR THE POOR.

WFO - AT WASHINGTON, D.C. : VERIFY AWARD AND OBTAIN APPROPRIATE DATA RE THIS AWARD.

EXPEDITE. -P-

END

MSE

FBI WASH DC

1cc destroyed

77-121928-72

NOT RECORDED

DEC 8 1971

54 JAN 1 1972

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 26 1971

NR 005 PG PLAIN

*maw*  
TELETYPE

4:30PM URGENT 10-26-71 KMK

TO ✓ DIRECTOR  
FROM PITTSBURGH (77-8290)

LEWIS FRANKLIN POWELL, JR., DAPL, JUSTICE, SUPREME  
COURT OF THE UNITED STATES, BUDED: WEDNESDAY NOON, NEXT  
WITHOUT FAIL

Mr. Tolson
Mr. Felt
Mr. Rosen
Mr. Mohr
Mr. Bishop
Mr. Miller, ES
Mr. Callahan
Mr. Casper
Mr. Conrad
Mr. Dailey
Mr. Cleveland
Mr. Ponder
Mr. Bates
Mr. Tavel
Mr. Walters
Mr. Seyars
Tele. Room
Miss Holmes
Miss Gandy

✓ MR. MARTIN  
ROOM 126

P REBUTEL TO RICHMOND, ET AL DATED OCTOBER TWENTY TWO,  
SEVENTY ONE, WFO TEL TO BUREAU, ET AL DATED OCTOBER TWENTY  
THREE, SEVENTY ONE, BUREAU NITEL TO RICHMOND, ET AL DATED  
OCTOBER TWENTY FOUR, SEVENTY ONE, AND BUTEL TO NORFOLK DATED  
OCTOBER TWENTY FIVE, SEVENTY ONE.

RECORDS OF THE PITTSBURGH PRESS DAILY NEWSPAPER CONTAINED  
ONLY INFORMATION REGARDING APPLICANT'S RECENT NOMINATION FOR  
POSITION ON THE SUPREME COURT AND CONTAINS TWO EDITORIALS  
AS FOLLOWS.

SUNDAY NEWSPAPER, FEBRUARY FOURTEEN, SIXTY FIVE, AN  
EDITORIAL ENTITLED "CRIMINAL VS. CITIZEN." POWELL,  
PRESIDENT OF THE AMERICAN BAR ASSOCIATION, IN A RECENT ADDRESS  
SAID THE SUPREME COURT IN ITS EFFORTS TO PROTECT CIVIL RIGHTS  
HAS SWUNG TOO FAR IN FAVOR OF THE CRIMINAL AT THE EXPENSE  
OF THE SAFETY OF THE PUBLIC. HE SAID "THERE ARE VALID REASONS

54 JAN 11 1972  
END PAGE ONE

Icc destroyed

PG 77-8290

PAGE TWO

FOR CRIMINALS TO THINK THAT CRIME DOES PAY AND THAT SLOW  
AND FUMBLING JUSTICE COULD BE EVADED." "THE RIGHT OF  
SOCIETY IN GENERAL, AND OF EACH INDIVIDUAL IN PARTICULAR TO  
BE PROTECTED FROM CRIME MUST NEVER BE SUBORDINATED TO  
OTHER RIGHTS." AN EDITORIAL WHICH APPEARED AUGUST THIRTEEN,  
SIXTY FIVE, REVEALED REMARKS BY POWELL AS A RETIRING PRESIDENT  
OF THE AMERICAN BAR ASSOCIATION BEFORE THE  
OPENING SESSION OF THE AMERICAN BAR ASSOCIATION IN MIAMI.  
HIS REMARKS WERE "THERE MUST BE NO LESSENING OF CONCERN FOR  
THE CONSTITUTIONAL RIGHTS OF PERSONS ACCUSED OF CRIME.  
BUT THE FIRST AND FOREMOST PRIORITY TODAY MUST BE A LIKE CONCERN  
FOR THE RIGHT OF CITIZENS TO BE FREE FROM CRIMINAL MOLESTATION  
OF THEIR PERSON AND PROPERTY. INDEED, THIS IS PERHAPS OUR  
MOST BASIC INDIVIDUAL RIGHT. UNLESS THIS IS ADEQUATELY PROTECTED,  
SOCIETY ITSELF MAY BECOME SO DISORGANIZED THAT IN THE END  
ALL RIGHTS MAY BE ENDANGERED."

THE NEWSPAPER MORGUE OF THE PITTSBURGH POST GAZETTE  
CONTAINED NO INFORMATION EXCEPT PUBLICATION REGARDING APPLICANT'S  
NOMINATION AND ALSO MADE REFERENCES TO THE ABOVE SPEECHES.

END PAGE TWO

PG 77-8290

PAGE THREE

ON OCTOBER TWNETY SIX, SEVENTY ONE, THE RECORDS OF THE  
ALLEGHENY COUNTY DETECTIVE BUREAU, THE PITTSBURGH POLICE  
DEPARTMENT AND THE CREDIT BUREAU, INC., PITTSBURGH, CONTAIN  
NO INFORMATION IDENTIFIABLE WITH THE APPLICANT. REPORT FOLLOWS.

P.

END

BJM FBI WASH DC

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, ES \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dalbey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Tavel \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

OCT 26 1971  
*JK*  
TELETYPE

NR 002 RH PLAIN

11:55 AM URGENT 10-26-71 NNM  
TO DIRECTOR  
NEW YORK  
FROM RICHMOND (77-11979) IP

[REDACTED]

MR. MARTIN  
ROOM 1206  
*JK*

b6  
b7C

[REDACTED]

COVES. LEWIS FRANKLIN POWELL, JR. JUSTICE, U. S. SUPREME COURT.

*B* RE RICHMOND TELCAL TO NEW YORK OCTOBER TWENTYSIX INSTANT.

[REDACTED] UNITED VIRGINIA BANK,

RICHMOND, VA., IS BUSINESS ASSOCIATE OF POWELL [REDACTED]

[REDACTED] MR.

b6  
b7C

[REDACTED] CURRENTLY ATTENDING A CONFERENCE IN NEW YORK CITY AND  
STAYING AT ST. REGIS HOTEL. NEW YORK INTERVIEW [REDACTED] RE MR.  
POWELL AND SPECIFICALLY ASCERTAIN [REDACTED]

P

END

LMR FBI WA DC

77-121928-76  
1 cc destroyed NOT RECORDED  
10 DEC 8 1971

54 JAN 11 1972

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 26 1971

TELETYPE

NR005 DL PLAIN

1241 PM URGENT 10-26-71 KJH

TO DIRECTOR

FROM DALLAS (77-7702) 2P

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, ES \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Da'bey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Tavel \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

LEWIS FRANKLIN POWELL, JR., DAPLI, JUSTICE, U. S. SUPREME COURT.

BUDED: NOON OCTOBER TWENTY SEVEN, NEXT, WITHOUT FAIL, NO DELAY

TOLERATED.

RE HOUSTON NITEL TO BUREAU DATED OCTOBER TWENTY-FIVE,  
SEVENTY-ONE, AND HOUSTON TELEPHONE CALL TO DALLAS DATED OCTOBER  
TWENTY SIX, SEVENTY ONE.

ON OCTOBER TWENTY SIX, SEVENTY ONE, [REDACTED]  
[REDACTED] REPUBLIC BANK TOWER, DALLAS, ADVISED HE HAS KNOWN  
LEWIS FRANKLIN POWELL, JR., FOR THIRTY YEARS AND HAS KNOWN HIM  
INTIMATELY FOR TWENTY FIVE YEARS. MR. [REDACTED] STATED HE HAS BEEN  
ASSOCIATED WITH POWELL IN THE AMERICAN BAR ASSOCIATION [REDACTED]  
[REDACTED] FEELS THAT POWELL IS ONE OF THE

END PAGE ONE

b6  
b7C

1cc destroyed

77-1248-75

NOT RECORDED

10 DEC 8 1971

54 JAN 11 1972

PAGE TWO

77-7702

TOP ATTORNEYS IN THE UNITED STATES AND WILL MAKE AN OUTSTANDING JUDGE.  
HE IS DEVOTED TO HIS PROFESSION AND ANALYZES FACTS OF A CASE. POWELL  
IS AN EXCELLENT WRITER, IS INDUSTRIOUS, AND EXTREMELY COMPETENT.

[REDACTED] FEELS HIS CHARACTER, MORALS, ASSOCIATES, AND LOYALTY ARE  
ABOVE REPROACH AND HIGHLY RECOMMENDS HIM FOR A POSITION OF TRUST  
AND CONFIDENCE.

b6  
b7C  
MR. [REDACTED] STATED HE HAS PREVIOUSLY FURNISHED THE ABOVE INFO  
BY LETTER TO PRESIDENT NIXON WITH COPIES TO ATTORNEY GENERAL  
MITCHELL.

REPORT FOLLOWS.

END

BJM FBI WASH DC

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

NR006 PH PLAIN

OCT 26 1971 *xal*

8:46 PM 10-26-71 URGENT RJO TELETYPE

TO DIRECTOR

RICHMOND

FROM PHILADELPHIA (77-14577)

b6  
b7C [REDACTED]

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Tavel	_____
Mr. Cleveland	_____
Mr. Felt	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Winters	_____
Mr. E. ...	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME COURT OF THE  
UNITED STATES, BUDED WEDNESDAY, NOON, NEXT, WITHOUT FAIL.

MR. MARTIN  
ROOM 1246

RE RICHMOND TELETYPE DATED OCTOBER TWENTYFIVE, LAST.

b6/b7C [REDACTED] AMERICAN BAR ASSOCIATION,  
IS IN THE CITY BUT ATTEMPTS TO CONTACT HIM HAVE BEEN UNSUCCESSFUL  
THIS DATE. EFFORTS TO CONTACT CONTINUING AND INTERVIEW WILL BE  
CONDUCTED AS SOON AS SEGAL IS AVAILABLE.

END

WA PLS ACK FOR THREE TELS OK TU GA

PLB FBI WA ACKS FOR 004 005 006

ice 77-124928-76  
[REDACTED]  
destroyed

[Signature]

54 JAN 1 1972

*MA  
9/26*  
*10/26*

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 26 1971

TELETYPE

VNR 001 BT PLIAN

5:55 PM MIXED 10-26-71 DDR

TO: DIRECTOR, FBI (HITEL)  
SAN DIEGO (URGENT)  
FROM: BUTTE (77-3333)

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, ES \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dalbey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
Mr. Rates \_\_\_\_\_  
Mr. Tavel \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

b6  
b7C

MR. [REDACTED]  
ROOM 1246

COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME COURT  
OF UNITED STATES, BUDED WED. NOON, NEXT, WITHOUT FAIL, NO  
DELAY TOLERATED.

P RE RICHMOND TELETYPE TO BUREAU, OCTOBER TWO FIVE, LAST,  
FURNISHING LIST OF PROMINENT INDIVIDUALS WELL KNOWN TO  
POWELL AMONG WHOM WAS JUDGE [REDACTED] BILLINGS,  
MONTANA. BUREAU INSTRUCTED ALL OFFICES TO INTERVIEW THOSE  
INDIVIDUALS LOCATED IN THEIR TERRITORY IMMEDIATELY.

INQUIRY, BILLINGS, DETERMINED JUDGE [REDACTED] PRESENTLY  
SITTING ON BENCH SAN DIEGO, CALIFORNIA, CAN BE REACHED  
THROUGH THE CLERK OF COURT, TELEPHONE TWO NINE THREE DASH  
FIVE SIX ZERO ZERO OR WESTGATE EXECUTIVE HOTEL, ONE  
ZERO FIVE FIVE SECOND AVENUE, TELEPHONE TWO THREE TWO DASH FIVE  
ZERO ONE ONE, SAN DIEGO, CALIFORNIA.

SAN DIEGO IMMEDIATELY INTERVIEW JUDGE [REDACTED]

b6/b7C

RUC

END

54 JAN 1 1972

*1cc destroyed*

F B I

Date: 10/26/71

Transmit the following in

## PLAINTEXT

(Type in plaintext or code)

TELETYPE

NITEL

Via

(Priority)

TO: DIRECTOR, FBI (MAIL) AND SAC, RICHMOND

FROM: SAC, WFO (77-94916)

COVES LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME COURT  
OF THE UNITED STATES.

RE BUREAU TELETYPE OCTOBER TWENTYTWO, SEVENTYONE.

THIS CONFIRMS WFO TELEPHONE CALL TO RICHMOND.

CIVIL SERVICE COMMISSION CHECK REVEALED FOLLOWING RECORD  
SEARCH INFORMATION. RICHMOND DETERMINE IF IDENTICAL WITH  
APPLICANT AND IF IDENTICAL REPORT. WFO REPORTING CSC  
UTILIZED.

b6 b7c

ENCLOSURE

1 - Bureau  
1 - WFO

LWS/cn

77-121828-78

NOT RECORDED

10 DEC 8 1971

*54 Jan 26 1972*  
Appr'd by [Signature]  
Special Agent in Charge

Sent \_\_\_\_\_ M Per \_\_\_\_\_

★ U. S. GOVERNMENT PRINTING OFFICE: 1971-413-135

SECOND SEARCH INFORMATION - - - (See introductory statement on Form DI-34)

The files reflect the following information on: LEWIS F. POWELL:

(All underscoring and capitalization supplied, unless otherwise indicated.)

1. A leaflet issued in 1930 by the NATIONAL STUDENT FEDERATION, listing the members of the "Controlling Bodies for 1930" is noted to contain the name LEWIS F. POWELL not further identified as Regional Representative of the South.

See attached summary of information on the NATIONAL STUDENT FEDERATION.

### CONTROLLING BODIES FOR 1930

#### STUDENT EXECUTIVE COMMITTEE:

President	E. R. MURROW
Vice President	ELEANOR WILSON
Treasurer	WILLARD E. LOWRY

#### Regional Representatives:

New England	PAUL FRIEDMAN
Middle Atlantic	F. BRUCE BALDWIN
South	LEWIS F. POWELL
East Central	IRVIN HARERIGHT
West Central	GLENN J. DEGNER
Rocky Mountain	ELTON W. PACE
Far West	LYNN JACK ROUNTREE

#### Members at Large:

G. HAWKINS GOLDEN	N. THOMAS STODDARD
-------------------	--------------------

0/21/55 RG  
0/25/55 HBC  
0/27/55 TTR

#### Ex-Officio Members:

Acting Executive Secretary	CHESTER S. WILLIAMS
Representative to C.I.E.	ELLIS C. YALE
President 1929	URSEL NARVER
Travel Secretary	HELEN DONOVAN

#### NATIONAL BOARD OF ADVISORS:

DR. DONALD J. COWLING, Chairman	
MR. WILLIAM G. SCHRAM, Controller	
HON. JOHN W. DAVIS	DR. ROBERT A. MILLIKAN
DR. STEPHEN P. DUGGAN	DR. PAUL MONROE
DEAN VIRGINIA GILDERSLEEVE	DEAN CHARLES H. RIEBER
DR. STEPHEN S. WISE	

(New members to be added at the 1930-31 Congress to complete Board of twelve)

#### STAFF:

Acting Executive Secretary	CHESTER S. WILLIAMS
Secretary of Travel Bureau	HELEN DONOVAN
Secretary of International Debating	VIRGINIA LOOMIS
Press Relation Secretary	GLENN J. DEGNER

#### Other Part Time Assistants

77-21928 78

Approved for release to CSC Regions, FBI  
Page 1 on LEWIS F. POWELL

ENCLOSURE

..... 10/27/51  
(initials) (date)  
DI 55

RECORD SEARCH INFO )TION - - - - (See introductory statement on Form DI-34)

The files reflect the following information on: NATIONAL STUDENT FEDERATION;  
*(All underscoring and capitalization supplied, unless otherwise indicated.)*

1. A Directory of Youth Organizations" issued by the National Youth Administration in 1940 sets forth the following information with respect to the NATIONAL STUDENT FEDERATION of America:

"History: The NATIONAL STUDENT FEDERATION of America was founded in 1925 at a conference of students, representatives of 245 colleges and universities, meeting at Princeton.

"Program: 1. Advocates the establishment of student governments in colleges and universities to give students a share in the responsibilities of college life and a training for democratic leadership. Endorses democratic election systems; honor systems; orientation programs for freshmen; student faculty committees; student participation in curriculum revision; no censorship of college press; no salaries for student officers. 2. Against American participation in war; military or economic aid to any country engaged in armed conflict. Optional rather than compulsory ROTC; adequate national defense but no infringement on domestic programs by exorbitant military expenditures. 3. Endorses the National Youth Administration; Federal aid to education; adequate health program for students; vocational education and guidance; freedom of speech, assembly and press; academic freedom. Condems methods of the Dics Committee. 4. Urges greater education in "politics" for college students. Fifteenth Annual Congress at University of Minnesota, December 27-31, 1939.

"Affiliations: Confederation International des Etudiants; National Peace Conference; United Student Peace Committee; AMERICAN YOUTH CONGRESS."

The AMERICAN YOUTH CONGRESS has been designated by the Attorney General of the United States as within the purview of Executive Order 10450.

77-12172-A-78  
ENCLOSURE

NY  
10/26  
FBI  
COMMUNICATIONS SECTION  
F B I  
OCT 26 1971 Date  
10/26/71

Mr. Tolson
Mr. Felt
Mr. Rosen
Mr. Mohr
Mr. Callahan
Mr. Clegg
Mr. Casper
Mr. Gandy
Mr. Glavin
Mr. Quinn
Mr. Tavel
Mr. Trotter
Mr. S.
Tate
Miss Holmes
Miss Gandy

Transmit the following in

FAX  
TELETYPE

PLAINTEXT   
(Type in plaintext or code)

URGENT

Via

~~RECEIVED  
FEDERAL BUREAU OF INVESTIGATION  
U.S. DEPARTMENT OF JUSTICE  
ATLANTA FIELD OFFICE  
ATLANTA, GEORGIA~~

(Priority)

TO: DIRECTOR, FBI AND  
SAC, MIAMI

FROM: SAC, CHICAGO (77-18067) (P)

LEWIS FRANKLIN POWELL. DAPLI, JUSTICE, U. S.  
SUPREME COURT.

RE RICHMOND TELETYPE TO DIRECTOR ET AL OCTOBER  
TWENTY THREE LAST, AND CHICAGO PHONE CALL TO MIAMI  
OCTOBER TWENTY SIX, INSTANT.

b6/b7C MR. ██████████ AMERICAN BAR

ASSOCIATION, CHICAGO, ILLINOIS, PRESENTLY AT FONTAINEBLEAU  
HOTEL, MIAMI BEACH, FLORIDA.

MIAMI INTERVIEW ██████████ RE POWELL.

b6/b7C

MR. MARTIN  
ROOM 1246

cc destroyed  
77-21928-79

54 JAN 11 1972

*MA 67,0124*

NR 62 NF PLAIN  
5:25 PM URGENT 10-26-71 VLC TELETYPE  
TO DIRECTOR  
MEMPHIS  
FROM NORFOLK (77-3497) 1P

MR. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, ES \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dailey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Tavel \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Sayars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

*MR. MARTIN  
ROOM 1246*

COVES, LEWIS FRANKLIN POWELL, JR., DAPL, JUSTICE, SUPREME  
COURT OF THE UNITED STATES, BUDED WEDNESDAY NOON NEXT  
WITHOUT FAIL, NO DELAY WILL BE TOLERATED.

*B*

RE NORFOLK TELEPHONE CALL TO MEMPHIS THIS DATE.

INVESTIGATION DEVELOPS THAT [REDACTED]

*Done*  
*RJ*  
[REDACTED] MEMPHIS, TENNESSEE, [REDACTED]

[REDACTED] MAY KNOW POWELL

AS A RESULT OF HIS CONTACTS IN THE RICHMOND AND NORFOLK  
VIRGINIA AREAS.

MEMPHIS AT MEMPHIS, TENNESSEE. WILL CONTACT [REDACTED]

*72/21927-80*

[REDACTED] RE HIS KNOWLEDGE OF POWELL.

*AMERICAN  
DEC 2 1971*

*b6  
b7c*

END

HOLD FOR ONE

EJF FBI WASH DC

*'cc Destroyed*

*Covered  
JF*

54 JAN 1 1972

*JK*  
*GT*  
*10/2*

NR008 TP PLAIN

534 PM URGENT 10-26-71 JDM

TO DIRECTOR

FROM TAMPA (77-1925) 1 PAGE

COVES, LEWIS FRANKLIN POWELL, JR., NOMINEE, JUSTICE, SUPREME  
COURT OF UNITED STATES. BUDED WEDNESDAY NOON, NEXT, WITHOUT FAIL.

*8 on*  
MR. MARTIN  
ROOM 1246

b6  
b7c

ATTORNEY [REDACTED] TAMPA, FLA., CONTACTED OCTOBER  
TWENTYSIX INSTANT AND HIGHLY RECOMMENDS. TELECOPIER REPORT  
BEING SENT A.M. OCTOBER TWENTYSEVEN NEXT. -P-

END

1cc destroyed

77-21928-81  
NOT RECORDED

TO DEC 8 1971

*JK*

54 JAN 1 1972

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, ES \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dalhey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Tavel \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

NR 011 PX PLAIN

625 PM 10/26/71 URGENT JDD

TO DIRECTOR  
FROM PHOENIX (77-4325)

COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME COURT OF UNITED STATES, BUDED WEDNESDAY NOON, NEXT, WITHOUT FAIL.

P RE RICHMOND TEL TO BUREAU, ET AL, OCTOBER TWENTYFIVE LAST.

U. S. DISTRICT JUDGE [REDACTED] PRESENT WHEREABOUTS  
NOT KNOWN. JUDGE [REDACTED] TRAVELING VIA POA FROM VANCOUVER, BRITISH COLUMBIA, AND IS DUE TO ARRIVE IN PHOENIX OCTOBER TWENTYNINE NEXT. ITENERARY NOT KNOWN. JUDGE [REDACTED] WILL BE INTERVIEWED UPON RETURN TO PHOENIX.

77-121920-82  
NOT RECORDED

10 DEC 8 1971.

PENDING.

END

b6  
b7c

54 JAN 11 1972

cc destroyed 10/23/72  
JF

Phoenix X-1/2  
To Sheregar  
dead

NA  
S7  
10/26

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 26 1971

TELETYPE

NR 009 RH PLAIN

6:47 PM NITEL 10-26-71 RSM

TO DIRECTOR

MIAMI (77-8137)

FROM RICHMOND (77-11979) 1P

Mr. Tolson .....  
Mr. Felt .....  
Mr. Rosen .....  
Mr. Mohr .....  
Mr. Tavel .....  
Miss Myrna L S .....  
Mr. C. Hagan .....  
Mr. Casper .....  
Mr. Conrad .....  
Mr. Darrow .....  
Mr. Cleveland .....  
Mr. P. .....  
Mr. Bates .....  
Mr. Tavel .....  
Mr. Walters .....  
Mr. Soyars .....  
Tele. Room .....  
Miss Holmes .....  
Miss Gandy .....  
  
[REDACTED]

b6  
b7c  
MRS. JACKIN  
ROOM 1246

COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE, U. S. SUPREME COURT,  
BUDED OCT. TWENTYSEVEN, NEXT, NOOD, NO DELAY WILL BE TOLERATED.

(P) RE MIAMI NITEL OCT. TWENTYSIX, LAST.

[REDACTED] MENTIONED IN YOURTEL, ADVISED ANY  
INFORMATION AS TO RESTRICTIVE COVENANTS MUST BE OBTAINED THROUGH  
ATTORNEY [REDACTED] DEL RAY BEACH, FLORIDA, TELEPHONE [REDACTED]

b6  
b7c

BUREAU HAS ADVISED IF REPORT THREE PAGES OR LESS, IT MAY  
BE SENT BY FACSIMILE MACHINE TO MEET DEADLINE.

MIAMI HANDLE. -P-

END

LRS FBI WASHDC CLR

1cc destroyed

Feed Box  
ASAC MM  
Chick  
Records  
off 10/27/71

54 JAN 1 1972

002 HO PLAIN

11:58PM NTEL 10-25-71 PXA FROM PLANO OF INFORMATION  
COMMUNICATIONS SECTION

TO DIRECTOR

DALLAS

NEW YORK

FROM HOUSTON (77-5958)

OCT 25 1971

TELETYPE

LEWIS FRANKLIN POWELL, JR., DAPL, JUSTICE, U.S. SUPREME  
COURT. BUDED: NOON OCTOBER TWENTY SEVEN NEXT, WITHOUT  
FAIL, NO DELAY TOLERATED.

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dailey	_____
Mr. Cleveland	_____
Mr. Pender	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Sayars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

MR. MARSH  
ROOM 124B

b6  
b7c

RE RICHMOND TELCAL TODAY.

P [REDACTED] ATTORNEY, HOUSTON, LONG TIME ASSOCIATE  
OF POWELL AND [REDACTED] AMERICAN BAR ASSOCIATION,  
INTERVIEWED RE POWELL TODAY. STATED HE BELIEVED [REDACTED]

[REDACTED] SOUTHERN METHODIST LAW SCHOOL, DALLAS,  
AND [REDACTED] GENERAL MOTORS, NYC,  
SHOULD BE INTERVIEWED CONCERNING POWELL.

DALLAS AND NEW YORK CONDUCT ABOVE INTERVIEWS IF NOT  
ALREADY DONE.

b6/b7c

77-21928-84

HOUSTON FURNISHING CONTENT OF [REDACTED] COMMENT CONCERNING  
POWELL, WHICH IS FAVORABLE, TO BUREAU BY SUBSEQUENT  
COMMUNICATION. P

END

RECD 001 002  
DCW FBI WASH DC

cc destroyed

54 JAN 1 1972

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, ES \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dailey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Pender \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Tavel \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Sayars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

NR 04 PLAIN

TELETYPE

130 PM URGENT 10-26-78 NJA

TO DIRECTOR

CINCINNATI

FROM ALEXANDRIA (77-2185) P 1

✓ MR. [REDACTED]  
ROOM 1245

b6  
b7c

LEWIS FRANKLIN POWELL, JR., DAPLI, JUSTICE, SUPREME COURT OF  
THE UNITED STATES, BUDED: WEDNESDAY NOON NEXT WITHOUT FAIL.

② RE ALEXANDRIA TELCALL TO CINCINNATI, OCTOBER TWENTYFOUR LAST.

FOR INFO OF CINCINNATI, REPORT MAY BE SUBMITTED BY FACSIMILE  
MACHINE IF IT DOES NOT EXCEED THREE PAGES. REPORT AS SOON AS  
POSSIBLE.

INSTANT TELCALL REQUESTED CINCINNATI TO CHECK DISCO INASMUCH  
AS POWELL WAS MEMBER OF BLUE RIBBON DEFENSE PANEL. IT SHOULD BE  
NOTED THAT CLEARANCE FOR THIS PANEL ISSURED BY DEPARTMENT OF DEFENSE,  
HOWEVER, POWELL WAS MEMBER OF BOARD OF DIRECTORS OF C AND P TELE-  
PHONE COMPANY AND THE ETHYL CORPORATION AND THUS DISCO ISSUED CLEAR-  
ANCE IN NINETEEN SIXTYEIGHT AND NINETEEN SIXTYTHREE RESPECTIVELY.

CINCINNATI HANDLE. P.

EN CORR DATE 10-26-71

END

GXC FBI WASHDC

34 JAN 1 1972

1 CC destroyed  
77-121328-85

FBI

Date: 10/26/71

Transmit the following in

PLAINTEXT  
(Type in plaintext or code)

Via TELETYPE

NITEL

(Priority)

TO DIRECTOR, FBI (AIR MAIL) AND SAC, RICHMOND (77-11979)  
 FROM MIAMI (77-8137) (P)

LEWIS FRANKLIN POWELL, JR., DAPLI; JUSTICE,  
 U. S. SUPREME COURT.

RE RICHMOND TELETYPE, OCT. TWENTYTHREE SEVENTYONE;  
 MIAMI TELCALL TO RICHMOND OCTOBER TWENTYSIX SEVENTYONE.

[REDACTED] HORIZON APARTMENTS, ONE THREE  
 SEVEN FIVE SOUTH OCEAN BLVD., DELRAY BEACH, FLA., ADVISED  
 APPLICANT PURCHASED AN APARTMENT IN THIS COOPERATIVE APT.  
 DEVELOPMENT TWO YEARS AGO THROUGH [REDACTED] MEMBER  
 OF BRYAN BROTHERS LAW FIRM, RICHMOND, VA., WHO IS REPUTED  
 TO BE A SOCIAL AND BUSINESS ACQUAINTANCE OF APPLICANT.

[REDACTED] HAD NO KNOWLEDGE OF ANY RESTRICTIVE COVENANTS.

RICHMOND INTERVIEW [REDACTED]

b6/b7c

① - Bureau (AM)  
 1 - Miami  
 DPM/bab

77-621928-86  
 NOT RECORDED

1C OCT 29 1971

*Spec Jha.*

54 JAN 11 1972  
 Approved  
 Special Agent in Charge

Sent \_\_\_\_\_ M Per \_\_\_\_\_

★ U. S. GOVERNMENT PRINTING OFFICE: 1971-413-135

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

NR003 ME PLAIN

OCT 26 1971

9:08 PM NITEL 10-26-71 DMB TELETYPE  
TO DIRECTOR  
FROM MEMPHIS (77-3865)

LEWIS FRANKLIN POWELL, JR., JUSTICE, U.S. SUPREME COURT.  
BUDED NOON OCTOBER TWENTYSEVEN NEXT.

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

MR. MARTIN  
ROOM 1216

P RE RICHMOND TELETYPE OCTOBER TWENTYFIVE, SEVENTYONE.

10-26-71  
ATTORNEY, MEMPHIS, TENNESSEE, ADVISED  
THIS DATE [REDACTED]

b6  
b7C

[REDACTED] AND HAS KNOWN  
POWELL INTIMATELY SINCE ABOUT NINETEEN FIFTYFOUR. HIS CONTACTS  
HAVE ALL BEEN IN CONNECTION WITH ABA MATTERS. HE CONSIDERS  
POWELL AS BEING AN OUTSTANDING LAWYER AND CITIZEN AND HIGHLY  
RECOMMENDS POWELL FOR THE SUPREME COURT. HE STATES POWELL IS  
OF EXCELLENT CHARACTER AND HAS A FINE FAMILY. HE STATES POWELL  
HAS RECEIVED ALL OF THE HONORS THAT THE ABA COULD GIVE HIM DUE  
TO HIS YEARS OF SERVICE TO THE LAWYERS OF AMERICA. HE STATED  
POWELL WAS PRESIDENT OF RICHMOND, VIRGINIA SCHOOL BOARD AND  
WAS HIGHLY RESPONSIBLE FOR THE PEACEFUL INTEGRATION OF THAT  
SCHOOL SYSTEM. HE CONSIDERS POWELL AS HAVING NO PREJUDICE  
OR BIAS AGAINST ANY RACE OR CREED. HE STATED POWELL WAS PERSONALLY  
END PAGE ONE

54 JAN 11 1972

1 cc destroyed

PAGE TWO

RESPONSIBLE FOR THE ABA SUPPORT OF LEGAL SERVICES TO INDIGENCE THROUGH THE OEO. HE STATES POWELL IS OF EVEN TEMPERAMENT AND HAS NEVER KNOWN HIM [REDACTED] TO LOSE HIS TEMPER UNDER ANY CIRCUMSTANCES. HE STATES POWELL HAS A REMARKABLE FACULTY FOR GETTING ALONG WELL WITH PEOPLE AND BY HIS SHEER ABILITY CAN RECONCILE CONFLICTING POINTS OF VIEW IN AN ORGANIZATION. HE STATED POWELL HAD AN OUTSTANDING WAR RECORD DURING WW TWO. [REDACTED] CONCLUDED THAT HE COULD CONCEIVE OF NO REASONABLE OR INTELLIGENT OBJECTION TO POWELL AS A MEMBER OF THE SUPREME COURT.

b6/b7c

[REDACTED] ATTORNEY, MEMPHIS, ADVISED THIS DATE HE HAS KNOWN POWELL FOR IN EXCESS OF FIFTEEN YEARS AND ORIGINALLY MET HIM DUE TO THE FACT THAT [REDACTED]

b6  
b7c

[REDACTED] WAS AN INTIMATE FRIEND OF MEMBERS OF POWELL'S LAW FIRM. [REDACTED] STATED THAT HE IS PRESENTLY [REDACTED]  
[REDACTED]  
[REDACTED]

HE

STATE HE HAS SEEN POWELL AT LEAST SEVERAL TIMES A YEAR AND  
END PAGE TWO

PAGE THREE

HAS CORRESPONDED WITH HIM OVER MANY YEARS IN CONNECTION WITH ABA MATTERS. HE STATED POWELL'S LEGAL ABILITY IS OF THE HIGHEST AND THAT HE IS NOTED FOR HIS CALM REASONABLE APPROACH TO PROBLEMS WHICH INSPIRES CONFIDENCE. HE STATED HE KNOWS OF NO BIAS WHATSOEVER BY POWELL AGAINST ANY RACE, CREED OR LABOR GROUP AND CONSIDERS POWELL AS HAVING THE PERFECT TEMPERAMENT OF AN OUTSTANDING LAWYER, IN THAT HE EVALUATES EVERYTHING ON THE BASIS OF THE LAW AND THE FACTS. ██████████ STATED HE HIGHLY RECOMMENDS POWELL AS JUSTICE IN THE SUPREME COURT.

b6/b7c

██████████ CATHOLIC DIOCESE OF MEMPHIS, ██████████ TENNESSEE, ADVISED THIS DATE HE IS NOT PERSONALLY ACQUAINTED WITH POWELL BUT KNOWS HIM TO HAVE AN EXCELLENT REPUTATION AS TO CHARACTER AND ABILITY IN THE VIRGINIA AREA. ██████████ STATED HE WAS ██████████ IN NORFOLK, VIRGINIA, FROM NINETEEN FIFTYTHREE TO NINETEEN SEVENTYONE AND HAD NUMEROUS SOCIAL AND RELIGIOUS CONTACTS ██████████ THROUGHOUT VIRGINIA WHO WERE ACQUAINTED WITH POWELL. ██████████ ALSO EXPLAINED ██████████

b6  
b7c

██████████ WAS A PROMINENT LAWYER IN RICHMOND UNTIL HE HAD A  
END PAGE THREE

PAGE FOUR

STROKE SEVERAL YEARS AGO, AND [REDACTED] HEARD [REDACTED]  
SPEAK HIGHLY OF POWELL MANY TIMES. [REDACTED] STATED THAT BASED  
POWELL'S REPUTATION, HE BELIEVES HIM TO BE FREE ON ANY  
TRAITS, HAVING NO PREJUDICE OR BIAS AGAINST ANY RELIGIOUS OR  
RACIAL GROUP AND HAS NEVER HEARD ANYTHING REGARDING POWELL  
WHICH WOULD RESULT IN HIM NOT RECOMMENDING POWELL [REDACTED] FOR THE  
POSITION IN QUESTION.

b6  
b7c

UACB, REPORT WILL NOT BE SUBMITTED. RUC. END.

PLS HOLD FOR O TWO MORE TT

XXXXXX  
XXXXXX  
XXXXXX

FEDERAL BUREAU OF INVESTIGATION  
 FOIPA  
 DELETED PAGE INFORMATION SHEET

      1       Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552 (b)(1) (b)(7)(A) (d)(5) (b)(2) (b)(7)(B) (j)(2) (b)(3) (b)(7)(C) (k)(1) (b)(7)(D) (k)(2) (b)(7)(E) (k)(3) (b)(7)(F) (k)(4) (b)(4) (b)(8) (k)(5) (b)(5) (b)(9) (k)(6) (b)(6) (k)(7)

- Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.
- Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

      1       Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

      1       Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

      1       Pages were not considered for release as they are duplicative of \_\_\_\_\_

      1       Page(s) withheld for the following reason(s): \_\_\_\_\_

- The following number is to be used for reference regarding these pages:  
77-121928-87 (Search Slip)

XXXXXXXXXXXXXXXXXXXX

X Deleted Page(s) X

X No Duplication Fee X

X for this page X

XXXXXXXXXXXXXXXXXXXX

XXXXXX  
XXXXXX  
XXXXXX

FBI/DOJ

NR 04 CO PLAIN

4:07PM URGENT 10/27/71 JBF

✓ TO DIRECTOR

FROM COLUMBIA (77-1214) 1P

LEWIS FRANKLIN POWELL, JR.; DAPLI, JUSTICE, SUPREME COURT OF  
THE UNITED STATES.

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mehr	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Ladd	_____
Mr. Cleveland	_____
Mr. Powers	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Saypol	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

✓ MR. MARTIN  
ROOM 1246

P RE COLUMBIA REPORT OF S [REDACTED] OCT. TWENTYSIX  
LAST; AND BUREAU TELEPHONE CALL TO COLUMBIA TODAY.

b6 b7C  
ON OCT. TWENTYSEVEN INSTANT [REDACTED] SPARTANBURG,  
S. C., JUDGE, FOURTH U. S. CIRCUIT COURT OF APPEALS, ADVISED HE HAS  
KNOWN APPLICANT FOR APPROXIMATELY FIFTEEN YEARS. CONSIDERS HIS  
CHARACTER, REPUTATION, AND ASSOCIATES COMPLETELY ABOVE REPROACH  
AND HIS LOYALTY TO U. S. UNQUESTIONED. BELIEVES APPLICANT'S  
JUDICIAL ABILITY AND TEMPERAMENT EXCELLENT. NEVER HEARD APPLICANT  
PERSONALLY EXPRESS HIMSELF ON CIVIL RIGHTS, BUT FEELS SURE HE  
WOULD "GO BY THE LAW." HAS NO KNOWLEDGE OF APPLICANT BELONGING  
TO ANY RACIALLY PREJUDICED ORGANIZATIONS.

END

GXC FBI WASHDC

77-121928-89  
NOT RECORDED

10 DEC 8 1971.

1cc destroyed

54 JAN 1 1972

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 27 1971

*mxw*  
TELETYPE

NR 014 NY PLAIN

313 PM URGENT 10-27-71 RJA

TO DIRECTOR

FROM NEW YORK (77-34527) 2P

LEWIS FRANKLIN POWELL, JR., DAPLI, JUSTICE, SUPREME  
COURT OF THE UNITED STATES, BUDED, OCTOBER TWENTY SEVEN,  
SEVENTY ONE.

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, ES \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dailey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Tavel \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

✓ MR. MARTIN  
ROOM 1246

b6  
b7c

P  
REFERENCE BUREAU TELEPHONE CALL TO NEW YORK, OCTOBER  
TWENTY SEVEN, SEVENTY ONE.

[REDACTED] PROFESSOR OF LAW, COLUMBIA UNIVERSITY,  
NEW YORK, NEW YORK, ADVISED SA [REDACTED] ON  
OCTOBER TWENTY SEVEN, SEVENTY ONE, HE DOES NOT KNOW THE  
APPLICANT. HE STATED HE PLANS TO DO SOME RESEARCH ON  
POWELL AND MIGHT HAVE AN OPINION AT A LATER DATE, HOWEVER,  
HE DOES NOT HAVE ANY COMMENT AT THIS TIME.

ON OCTOBER TWENTY SEVEN, SEVENTY ONE, [REDACTED]  
[REDACTED] ASSOCIATE PROFESSOR OF LAW, COLUMBIA UNIVERSITY,  
ADVISED SA [REDACTED] HE DID NOT KNOW THE APPLICANT  
PERSONALLY AND ONLY KNEW ABOUT HIM FROM WHAT HE HAD READ IN  
THE NEWSPAPERS FOLLOWING HIS NOMINATION TO THE SUPREME COURT.  
END PAGE ONE

54 JAN 11 1972

1 cc destroyed 4/2

77-12192P-90  
SEARCHED  
INDEXED  
SERIALIZED  
FILED  
DEC 20 1971  
FBI - NEW YORK

4/2

NY 77-34527

PAGE TWO

HE STATED HE HAD BEEN DOING INDEPENDENT ANALYTICAL RESEARCH  
CONCERNING THE WRITTEN OPINIONS OF [REDACTED]

[REDACTED] OF CALIFORNIA, BUT DID NOT FORESEE  
SIMILAR RESEARCH WITH RESPECT TO THE APPLICANT FOR THE  
FACT THAT POWELL HAD NO JUDICIAL EXPERIENCE AND, THEREFORE,  
NO WRITTEN OPINIONS OF RECORD. HE STATED HE HAD NO REASON  
TO COMMENT ONE WAY OR ANOTHER CONCERNING POWELL.

b6/b7c

(RUC)

END

MSE

FBI WASH DC

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 27 1971

NR002 PH PLAIN

1215PM URGENT 10-27-71 CP

TO DIRECTOR

FROM PHILADELPHIA 77-14577

TELETYPE

Mr. Tolson
Mr. Felt
Mr. Rosen
Mr. Mohr
Mr. Bishop
Mr. Miller, ES
Mr. Callahan
Mr. Casper
Mr. Conrad
Mr. Dalbey
Mr. Cleveland
Mr. Ponder
Mr. Bates
Mr. Tavel
Mr. Waltrip
Mr. Saywes
Tela. Room
Miss Holmes
Miss Gandy

COVES, LEWIS FRANKLIN POWELL, JR.; JUSTICE, SUPREME COURT OF  
UNITED STATES

Mrs. MARTIN  
ROOM 249

b6  
b7C

P [REDACTED] [REDACTED] 1962 [REDACTED]

PHILADELPHIA, ADVISED HAS KNOWN POWELL SINCE NINETEEN FIFTY-

[REDACTED]

RELATIONSHIP HAS BEEN BOTH PROFESSIONAL AND AS PERSONAL FRIEND.

[REDACTED] FEELS HE KNOWS POWELL EXTREMELY WELL. HE CONSIDERS  
POWELL'S ABILITY AS LAWYER AT THE HIGHEST LEVEL OF COMPETENCE  
AND WOULD PLACE HIM AMONG TOP TWENTY-FIVE NATIONALLY OR [REDACTED]  
TOP TWENTY-FIVE. POWELL'S CHARACTER IS EQUALLY HIGH. HE  
IS ONE OF THE MOST STERLING PERSONS [REDACTED] KNOWS, UNIMPEACHABLE,  
VERY FIRM AND SOLID, AND HIGHLY MOTIVATED, IN SUMMARY A SUPERB  
PERSON. [REDACTED] HAS HAD PROFESSIONAL DEALINGS WITH POWELL OVER THE  
YEARS. [REDACTED]

[REDACTED] POWELL WAS PRESIDENT OF AMERICAN BAR ASSOCIATION(ABA).

END PAGE ONE

77-121928 91

1cc destroyed

54 JAN 11 1972

PH77-14577

PAGE TWO

THEY SERVED TOGETHER ON BOARD OF AMERICAN BAR FOUNDATION. POWELL  
ALSO BECAME PRESIDENT OF AMERICAN COLLEGE OF TRIAL LAWYERS. [REDACTED]

[REDACTED]  
INCLUDING POWELL'S TERM AS PRESIDENT OF ABA. IN SUBSTANTIATION  
OF HIS OPINION OF POWELL, [REDACTED] COMMENTED THAT HE SELECTED  
POWELL AS GENERAL COUNSEL FOR STATE OF VIRGINIA FOR A COMPANY  
OF WHICH [REDACTED] HAS PERSONALLY  
RECOMMENDED POWELL FOR SUPREME COURT, ONCE ABOUT ONE AND ONE  
HALF TO TWO YEARS AGO AND AGAIN IN OCTOBER NINETEEN SEVENTYONE  
WHEN HE ASKED POWELL TO PERMIT HIMSELF TO BE CONSIDERED.

1971①  
POWELL RESPONDED AS OF OCTOBER SIXTH, STATING THAT HE DID NOT  
WISH TO BE CONSIDERED AND CITING AS ONE REASON, HIS AGE. HE  
IN TURN URGED [REDACTED] HIMSELF AS AN APPROPRIATE JUSTICE.  
[REDACTED]  
OPINION IS THAT POWELL PREFERRED PRACTICE OF LAW BUT AS  
A LAWYER COULD NOT REFUSE OFFER OF APPOINTMENT TO SUPREME COURT.  
END PAGE TWO

b6  
b7c

1971①

PH 77-14577

PAGE THREE

[REDACTED] ACQUAINTED WITH MRS. POWELL WHOM HE DESCRIBED AS  
NOT ONLY A LOVELY PERSON<sup>D</sup> BUT ONE OF THE OUTSTANDING LADIES  
OF ABA AND IN HER OWN WAY ABOUT THE SAME HIGH CALIBER PERSON  
AS POWELL HIMSELF. HE IS ACQUAINTED WITH THEIR DAUGHTER, A LAW  
STUDENT <sup>AT</sup> UNIVERSITY OF VIRGINIA, WHOM HE CONSIDERS A FINE  
YOUNG WOMAN. HE HAS MET THEIR OTHER CHILDREN ONLY CASUALLY  
AND NOT IN A POSITION TO EVALUATE THEM.

b6  
b7c

[REDACTED] CONSIDERS POWELL A "MODERATE" ON CIVIL RIGHTS. HE  
POINTED OUT THAT POWELL WAS PRESIDENT OF RICHMOND, VA. SCHOOL  
BOARD WHEN RICHMOND SCHOOLS WERE DESEGREGATED AND DESEGREGATION  
WENT QUITE SMOOTHLY. HE IS AWARE THAT POWELL BELONGS TO  
SEGREGATED CLUBS IN RICHMOND BUT STATED THAT NO TOP QUALITY  
COUNTRY CLUB OR EATING CLUB IN RICHMOND IS NON-SEGREGATED.  
POWELL HAS GIVEN THIS INFORMATION TO PRESS AND IT HAS RECENTLY  
APPEARED IN PRINT. POWELL ALSO BELONGS TO NON-SEGREGATED  
CLUBS INCLUDING CENTURY ASSOCIATION IN NEW YORK CITY. [REDACTED]  
POINTED OUT THAT HE HIMSELF HAS FOR YEARS BEEN VERY ACTIVE  
IN FIELD OF CIVIL RIGHTS HAVING SERVED AS [REDACTED]

b6  
b7c

END PAGE THREE

PH77-14577

PAGE FOUR

[REDACTED] AT REQUESTS OF PRESIDENT KENNEDY  
AND PRESIDENT JOHNSON. HE HAS NO CONCERN AS TO POWELL'S  
POTENTIAL FAIRNESS IN CIVIL RIGHTS MATTERS ON SUPREME COURT.  
IF HE WERE CONCERNED, HE WOULD OPPOSE POWELL. [REDACTED] DESCRIBES  
POWELL'S ATTITUDE ON RELIGIOUS FREEDOM AS "RED HOT LIBERAL"  
AND STATES HE HAS SHOWN THIS IN MANY WAYS.

b6  
b7c

[REDACTED] CONSIDERS POWELL A LOYAL, PATRIOTIC AMERICAN. [REDACTED] b6/b7c  
HIS RECOMMENDATION OF POWELL FOR SUPREME COURT JUSTICE IS  
UNQUALIFIED.

NO REPORT UACB.

END

LMR FBI WA DC L CLR

RA  
NY  
10/27

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 27 1971

TELETYPE *XPC*

NR 004 LR PLAIN

4:51 PM IMMEDIATE 10-27-71 LDP

TO: BUREAU

FROM: LITTLE ROCK (77-2540)

LEWIS FRANKLIN POWELL, JR., DAPL.

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
De. Bob p \_\_\_\_\_  
Mr. Miller, ES \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dailey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Tavel \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

MR. MARTIN  
ROOM 1246

RE [REDACTED] LITTLE ROCK REPORT, OCTOBER TWENTY SIX, SEVENTY ONE,  
AND BUREAU TELCALL, OCTOBER TWENTY SEVEN INSTANT.

P [REDACTED] IN LAW FIRM OF  
WRIGHT, LINDSEY AND JENNINGS, LITTLE ROCK, ADVISED OCTOBER  
TWENTY SIX LAST, HE HAS KNOWN APPLICANT INTIMATELY FOR  
TWENTY FIVE YEARS AND CONSIDERS HIM ONE OF GREATEST LIVING  
AMERICANS BY ANY STANDARDS. [REDACTED] OF  
AMERICAN BAR ASSOCIATION, STATED HE WAS CLOSELY ASSOCIATED  
WITH POWELL AT TIME POWELL WAS PRESIDENT OF ABA, AND FURTHER  
INDICATED HE WAS PRESENT ON NUMEROUS OCCASIONS WHEN POWELL  
MADE PUBLIC APPEARANCES, POINTING OUT HE HANDLED HIMSELF IN  
AN EXTREMELY CAPABLE MANNER. HE DESCRIBED POWELL AS A  
MILD MANNERED AND REASONABLE INDIVIDUAL WHO APPROACHES  
END PAGE ONE

b6  
b7c

V

77-121728-93

1cc destroyed

*[Signature]*

54 JAN 1 1972

LR 77-2540

PAGE TWO

CONTROVERSIAL MATTERS IN A CONCILIATORY SPIRIT. HE FURTHER STATED HE HAS NEVER HEARD POWELL SPEAK IN A DEROGATORY MANNER CONCERNING MEMBERS OF A MINORITY RACE, DOES NOT KNOW HIM TO BE A MEMBER OF ANY RACIALLY PREJUDICED ORGANIZATION CONSIDERS HIM TO BE A COMPETENT WRITER, AND HIGHLY RECOMMENDS HIM FOR A POSITION ON THE SUPREME COURT, ADDING HE IS WELL QUALIFIED BY BREEDING, EDUCATION, AND EXPERIENCE TO BE A SUPREME COURT JUSTICE.

END

XXXXXX

EBM FBI WA PLS HOLD

*WA  
57/21  
10/27*

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 27 1971  
*mrxw*  
TELETYPE

MR 015 BA PLAIN

5:16 PM M URGENT 10-27-71 BJD

TO BUREAU

FROM BALTIMORE (77-NEW (RUC)

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

*✓ MR. MARSH  
ROOM 1246*

LEWIS FRANKLIN POWELL, JR., DAPLI, DEPUTY US SUPREME COURT

*P* RE BUREAU TELEPHONE CALL TO BA, OCTOBER TWENTYSEVEN INSTANT.

JUDGE [REDACTED] US COURT OF APPEALS, FOURTH CIRCUIT,  
USPO, BALTIMORE, PRESENTLY IN GREECE AND NOT EXPECTED TO RETURN IN THE  
VERY NEAR FUTURE.

HONORABLE [REDACTED] OF US COURT  
OF APPEALS FOR THE FOURTH CIRCUIT, ON OCTOBER TWENTYSEVEN INSTANT,  
ADVISED SA [REDACTED] THAT HE HAS KNOWN LEWIS F. POWELL, JR., FOR  
ABOUT FIFTEEN YEARS ON A PROFESSIONAL AND SEMI-SOCIAL BASIS. JUDGE  
[REDACTED] SAID POWELL ON SEVERAL OCCASIONS, APPEARED BEFORE HIM IN  
COURT SESSIONS OF THE FOURTH CIRCUIT AND THAT HE OBSERVED POWELL TO BE  
A PROFESSIONALLY COMPETENT AND ABLE ATTORNEY AND A MAN OF GOOD  
END PAGE ONE

*b6  
b7c*

*b6  
b7c*

*77-12192-93*

*I cc destroyed*



54 JAN 1 1972

PAGE TWO

BA 77-NEW

CHARACTER AND A LOYAL CITIZEN. JUDGE ██████████ STATED THAT POWELL IS A MEMBER OF A WELL KNOWN RICHMOND LAW FIRM AND IS A CORPORATION LAWYER AND IN THIS ROLE, APPEARED BEFORE THE COURT. JUDGE ██████████ SAID POWELL, IN HIS OPINION, IS WELL REGARDED BY ASSOCIATES AND MADE AN ABLE REPRESENTATION BEFORE THE COURT ON BEHALF OF HIS CLIENTS. JUDGE ██████████ SAID POWELL HAS A BRIGHT MIND AND IS A FORMER PRESIDENT OF THE AMERICAN BAR ASSOCIATION AND HAS THE PROFESSIONAL QUALIFICATIONS FOR THE POSITION FOR WHICH HE IS BEING CONSIDERED AND HIS SELECTION SHOULD RECEIVE FAVORABLE ACTION BY THE US SENATE.

b6  
b7c

IN REGARD TO POWELL'S ATTITUDES ON CIVIL RIGHTS AND CIVIL LIBERTIES, JUDGE ██████████ STATED THAT POWELL SETS OUT FOR HIMSELF AT LENGTH HIS VIEWS ON THESE MATTERS IN PRINT IN THE OCTOBER SEVENTYONE FBI LAW ENFORCEMENT BULLETIN AND THAT THIS ARTICLE SHOULD ADEQUATELY SHOW HIS BELIEFS IN THESE MATTERS.

b6  
b7c

JUDGE ██████████ SAID IN HIS CONTACTS WITH POWELL, THERE WAS NOTHING TO SUGGEST THAT POWELL WAS ANYTHING OTHER THAN AN HONORABLE PERSON WHO WOULD IMPARTIALLY JUDGE MATTERS TO THE BEST OF HIS ABILITY.

b6  
b7c

END

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 28 1971

TELETYPE

NR 013 PX PLAIN

1025 PM 10-27-71 NITEL MPB

TO DIRECTOR

WASHINGTON FIELD

FROM PHOENIX (77-4325) 1P

Mr. Tolson	✓
Mr. Felt	✓
Mr. Rosen	✓
Mr. Mohr	✓
Mr. E. D. T.	✓
Mr. Miller, ES	✓
Mr. Callahan	✓
Mr. Casper	✓
Mr. Conrad	✓
Mr. Daibey	✓
Mr. Cleveland	✓
Mr. Ponder	✓
Mr. Bates	✓
Mr. Tavel	✓
Mr. Walters	✓
Mr. Sayars	✓
Tele. Room	✓
Miss Holmes	✓
Miss Gandy	✓

MR. MARTIN  
ROOM 1246

b6  
b7C

LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME COURT OF THE UNITED STATES. BUDED TEN TWENTYSEVEN, SEVENTYONE.

P RE WFO TEL CALL TEN TWENTYSEVEN, INSTANT.

[REDACTED] INVESTIGATOR, RESEARCH PROJECT ACTION COUNCIL, b6 b7C  
WASH., D.C., ADVISED SA [REDACTED] IN TELEPHONE CONVERSATION THAT HE DID NOT POSSESS INFORMATION HE FELT WOULD BE OF INTEREST TO THE FBI AND IF HE DID POSSESS INFORMATION OF INTEREST, HE COULD NOT DIVULGE IT ON HIS OWN INITIATIVE. HE ADVISED THAT HIS SUPERIORS HAVE BEEN CONTACTED BY THE FBI AND THAT HE UNDERSTOOD THAT FURTHER DISCUSSIONS BETWEEN HIS SUPERIORS AND THE FBI WERE TO TAKE PLACE IN A FEW DAYS.

RUC.

END

17-6363-94  
NOV 19 1971

10 DEC 8 1971

1cc destroyed

54 JAN 1 1972

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

NOV 11 1971

TELETYPE

NR01 SL PLAIN

1050 URGENT 11-14-71 VXJ

TO BUREAU

FROM ST LOUIS(77-M)

✓ MR. MURKIN  
ROOM 1246

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Da	_____
Mr. Cleveland	_____
Mr. Felt	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

LEWIS FRANKLIN POWELL JR., DAPL, JUSTICE, SUPREME COURT OF THE  
UNITED STATES

REBUCAL 11-14-71

ST LOUIS CITY DIRECTORY CONTAINS NO [REDACTED] CURRENT  
ST LOUIS AREA TELEPHONE DIRECTORY AND SIXTYNINE AND SEVENTY ST LOUIS  
COUNTY DIRECTORY, LIST [REDACTED]

[REDACTED], MO., SUBURBS OF SL, RETIRED. NINETEEN FIFTY EIGHT  
AND FIFTYNINE SL COUNTY DIRECTORIES LIST HIM AT [REDACTED]  
[REDACTED] NO EMPLOYMENT SHOWN.

10 DEC 8 1971

SL COUNTY DIRECTORIES NINETEEN SIXTYONE AND SIXTYTWO LIST HIM  
SAME ADDRESS AS A FREE LANCE REAL ESTATE SALEMAN AND SIMILAR  
DIRECTORIES NINETEEN SIXTYTHREE THRU SIXTYEIGHT LIST HIM SAME ADDRESS  
AND LIST HIM AS SALEMAN. THESE DIRECTORIES FROM NINETEEN FIFTY SEVEN  
THRU NINETEEN SIXTYSEVEN ALSO LIST ONE MRS [REDACTED] SAME ADDRESS.

SL INDICES CONTAIN NO RECORD [REDACTED] AND INDICTED THAT [REDACTED]

[REDACTED] ST LOUIS MO ZIP CODE SIX THREE  
ONE ZERO FIVE AS OF DEC, NINETEEN FIFTYTHREE TO BE SUBSCRIBER TO  
YUGOSLAV REVIEW, THE OFFICIAL PUBLICATION OF THE YUGOSLAV INFORMATION  
END PAGE ONE

1 - C c DeWolfe

54 JAN 11 1972

CENTER, EIGHT ONE FIVE FIFTH AVE., NEW YORK CITY WHICH IS REGISTERED  
WITH THE FOREIGN AGENTS, REGISTRATION SECTION, U.S. DEPT OF  
JUSTICE WASHINGTON DC

NO INVESTIGATION BEING CONDUCTED UACB

END

KPT FBI WASH

CLR

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

89-415 WSH

NOV 14 1971

WU WSH

WESTERN UNION

TLXA154 KA174 SA537

S LLF209 CG NL PDF ST LOUIS MO 13

FBI PENNSLYVANIA AT 9TH NORTHWEST

WUX WASHDC

IN CONNECTION WITH THE INVESTIGATIVE RESPONSIBILITIES OF THE  
BUREAU REGARDING THE FITNESS OF MR LEWIS F POWELL JR IT WILL  
BE DEMONSTRATED THAT MR POWELL IS WILLING TO PUT HIS HAND  
ON THE GOOD BOOK TO ANSWER QUESTIONS IN THE SPECIAL INTEREST  
OF THE AMERICAN BAR ASSOCIATION YET HE WILL REFUSE TO ANSWER  
THOSE SAME QUESTIONS ON A LIE DETECTOR TEST THIS LACK OF INTEGRITY  
ON THE PART OF MR POWELL WILL RESULT IN HIS NEVER BEING AN  
ASSET TO THE SUPREME COURT

Mr. Tammie  
Mr. Gitt  
Mr. Rosen  
Mr. Murray  
Mr. Bishop  
Mr. Miller, ES  
Mr. Callahan  
Mr. Casper  
Mr. Conrad  
Mr. Dalbey  
Mr. Cleveland  
Mr. Ponder  
Mr. Bates  
Mr. Tavel  
Mr. Walter  
Mr. Soyars  
Tele. Room  
Miss Holmes  
Miss Gandy

b6  
b7C

MAN

b6/b7C

235A EST 14 NOV 71

\*

89-415 WSH

54 JAN 11 1972

MR. ROSEN FOR THE DIRECTOR

CC: [REDACTED]

77-12192-96  
NOT INDEXED

NOV 14 1971

DJ

November 15, 1971

THE SPECIAL INVESTIGATIVE DIVISION

[REDACTED] St. Louis, Missouri (otherwise unidentified), directed Western Union wire to Bureau 11/14/71. Claimed Lewis F. Powell, Jr., Supreme Court nominee, would place hand on "good book" to answer questions for American Bar Association but refuse to answer same questions in lie detector test. [REDACTED] claims this indicative of Powell's lack of integrity. Check of indices and city directories, St. Louis discloses one [REDACTED] resides [REDACTED] University City, Missouri (St. Louis suburbs), retired in 1953, [REDACTED] same address, subscribes to "Yugoslav Review", official publication Yugoslav Information Center, New York City.

Copy of wire and foregoing information being furnished Deputy Attorney General with advice no interview of [REDACTED] contemplated in absence of request from Department.

JAR:bsn

V  
WV  
SD  
MPT  
JF  
JL

UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. Cleveland ✓

DATE: 10-27-71

FROM : L. H. Martin ✓

SUBJECT: LOUIS FRANKLIN POWELL, JR.

SUPREME COURT NOMINEES

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen ✓  
Mohr \_\_\_\_\_  
Bishop ✓  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Raines \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

b6  
b7c

The New York Office has advised that it had occasion to interview [REDACTED] an attorney in New York, who until 1969 was in the Office of Legal Counsel in the Department of Justice. He was in the latter office for a short period after [REDACTED] took over in 1969.

[REDACTED] b6  
[REDACTED] b7c  
New York advised that on contacting [REDACTED] he volunteered that he had already been contacted by representatives from both Senator [REDACTED] Democrat [REDACTED], and Senator [REDACTED] Democrat [REDACTED] soliciting his comments regarding [REDACTED]

[REDACTED] b6  
[REDACTED] b7c  
commented favorably regarding [REDACTED] and furnished an unqualified endorsement. He added his comments to FBI were the same as those furnished [REDACTED] and [REDACTED] representatives.

## ACTION:

This is for information. The Office of the Deputy Attorney General is being advised.

- ✓  
aas/m  
WVC  
f  
PMT  
7  
SF  
DD  
JGM  
77-121922-97  
NOT RECORDED  
15 JAN 10 1972  
NOT RECORDED  
162 JAN 20 1972
- 1 - Mr. Felt  
1 - Mr. Rosen  
1 - Mr. Mohr  
1 - Mr. Bishop  
1 - Administrative Review Unit  
Crime Records Division  
1 - Mr. Cleveland  
1 - Mr. Martin b6  
1 - Mr. [REDACTED] b7c

162 JAN 25 1972

**UNITED STATES GOVERNMENT**

## *Memorandum*

TO : Mr. Felt ✓  
FROM : T. E. Bishop ✓  
SUBJECT: INVESTIGATION  
LEWIS F. POW

DATE: 10/28/71

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, F.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

**INVESTIGATION OF NOMINEES  
LEWIS F. POWELL, JR. AND**

b6/b7c

## SPECIAL INQUIRY INVESTIGATION

The above-captioned individuals are presently under investigation by the Bureau in connection with their nomination by the President for the position of Justices of the Supreme Court. On the afternoon of 10/28/71, [REDACTED] a reporter for the "Washington Post," contacted Bishop.\* He stated he wished to ask Bishop some questions concerning the investigation which the Bureau may be conducting on the above-named individuals.

He stated that the "Washington Post" has been advised by a number of people who have been contacted by FBI Agents, that the FBI is presently conducting an investigation of the above-named appointees. He advised that a Mr. [REDACTED] has allegedly been contacted by an Agent named [REDACTED] (phonetic) and, after the conclusion of the interview, the Agent asked [REDACTED] if he intended to testify in opposition to the nomination of either of the above. [REDACTED] also stated that a professor at Harvard has indicated that he, too, was contacted by an FBI Agent. The professor had previously conducted a study of an earlier nominee to the Supreme Court who had been rejected. The Agent allegedly asked this professor if the professor intended to conduct a similar study of the two current nominees and whether he intended to appear in opposition to them.

[redacted] advised that both of the people who had contacted the "Post" indicated that they felt the questions on the part of the FBI Agents were intended to "repress any possible dissent" that they might have to the nominees.

[REDACTED] wished to know if the FBI was conducting an investigation, and what our policy is with regard to asking questions of persons contacted which are designed to elicit information as to whether or not they intend to appear in opposition to the nomination. *W.H.C.* JAN 19 1972

- 1 - Mr. Cleveland  
1 - Mr. Bishop  
1 - Mr. ██████████ b6 b7c Cleveland 1-71 NOT RECORDED  
1-72 JAN 20 1972 (CONTINUED - OVER)

TEB:jo

(4)

JAN 24 1972

ORIGINAL FILED IN

Bishop to Mr. Felt memo (continued)

Re: INVESTIGATION OF NOMINEES LEWIS F. POWELL, JR.

AND [REDACTED]

b6/b7c

b6/b7c

[REDACTED] was advised that the FBI would have absolutely no comment to make whatsoever concerning this matter.

RECOMMENDATION:

None. For information.

Properly handled -  
J  
TFB

ADDENDUM - SPECIAL INVESTIGATIVE DIVISION - WVC:LS - 10/28/71

During the interview of [REDACTED] he volunteered he, in the past, had testified in Washington but he did not anticipate testifying concerning the current nominees. This was volunteered by [REDACTED] and was not solicited by direct or indirect question on the part of the interviewing Agent. He added that he did not know either Powell or [REDACTED] and was not conducting any study into their background.

b6  
b7c

Professor [REDACTED] of Harvard University was interviewed by an Agent of the Boston Office at which time he advised he has not made nor is he making any study of either of the nominees. He did advise that he has been reading background information regarding them but he does not consider this to be a study in any manner. [REDACTED] was not asked any questions from which it could be inferred either directly or indirectly as to whether or not he intended to oppose the appointment of the nominees.

b6  
b7c

Send memo  
to A.G.  
J

WVC  
J  
PATT  
F

F B I

Date: 10/29/71

Transmit the following in \_\_\_\_\_

**PLAINTEXT**

(Type in plaintext or code)

Via \_\_\_\_\_

**TELETYPE****IMMEDIATE**

(Priority)

TO: DIRECTOR, FBI (MAIL)

FROM: SAC, WFO b6/b7C

COVES, [REDACTED] JUSTICE, SUPREME COURT

OF THE UNITED STATES, WFO (77-86748).

COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME  
COURT OF THE UNITED STATES, WFO (77-94916).RE BUREAU TELEPHONE CALL TO WFO OCTOBER TWENTYNINE,  
SEVENTYONE, REQUESTING FACTS CONCERNING CONTACT WITH [REDACTED][REDACTED]  
ON OCTOBER TWENTYSIX, SEVENTYONE, SA [REDACTED]  
TELEPHONICALLY CONTACTED THE OFFICE OF [REDACTED]  
ATTORNEY, [REDACTED], IN AN [REDACTED]  
ATTEMPT TO SET UP AN APPOINTMENT FOR INTERVIEW. SA [REDACTED]  
WAS ADVISED THAT [REDACTED] WAS PRESENTLY IN CAMBRIDGE,  
MASSACHUSETTS.

b6 b7C ON THE SAME DATE, [REDACTED] TELEPHONICALLY CONTACTED

(2) - Bureau

2 - WFO

HBA/cn

77-12182-99

NOT RECORDED

162 JAN 20 1972

Approved: [Signature] Sent \_\_\_\_\_ M Per \_\_\_\_\_  
58 JAN 24 1972 Special Agent in Charge

★ U. S. GOVERNMENT PRINTING OFFICE: 1971-413-135

ORIGINAL FILED IN 77-12182-99

F B I

Date:

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via \_\_\_\_\_  
(Priority)WFO 77-86748  
PAGE TWO

b6/b7C SA [REDACTED] FROM CAMBRIDGE, MASSACHUSETTS, WITH REGARD TO THE PREVIOUS PHONE CALL MADE TO HER OFFICE IN WASHINGTON, D.C. SHE WAS ADVISED THAT THE FBI WISHED TO CONTACT HER IN CAMBRIDGE REGARDING ANY INFORMATION OF VALUE SHE MIGHT FURNISH THE FBI IN CONNECTION WITH THE TWO SUPREME COURT NOMINEES.

b6/b7C IN VIEW OF A BAD CONNECTION, IT WAS SUGGESTED BY SA [REDACTED] THAT SHE BE CONTACTED IN CAMBRIDGE BY AGENTS OF THE BOSTON FIELD OFFICE. SHE STATED THAT IN VIEW OF NO INFORMATION DEVELOPED TO DATE BY HER REGARDING THE SUPREME COURT NOMINEES, SHE FELT IT UNNECESSARY TO BE CONTACTED AT THIS TIME, STATING SHE WOULD BE UNABLE TO FURNISH ANY INFORMATION REGARDING THE TWO NOMINEES. NO REFERENCE WHATSOEVER WAS MADE REGARDING HER INTENTIONS TO EITHER OPPOSE THE NOMINATIONS OR TESTIFY IN ANY HEARING WHATSOEVER.

b6/b7C AS [REDACTED] STATED SHE HAD NO INFORMATION OF VALUE TO FURNISH AT THIS TIME CONCERNING THE TWO SUPREME COURT

Approved: \_\_\_\_\_ Sent: \_\_\_\_\_ M Per: \_\_\_\_\_  
Special Agent in Charge

F B I

Date:

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via \_\_\_\_\_  
(Priority)WFO 77-86748  
PAGE THREE

NOMINEES, THE CONVERSATION WAS TERMINATED.

b6  
b7c

IT SHOULD BE NOTED THAT [REDACTED] TELEPHONICALLY CONTACTED SA [REDACTED] AT THE WASHINGTON FIELD OFFICE FROM CAMBRIDGE, MASSACHUSETTS, AND AT NO TIME DID SA [REDACTED] OR ANY AGENT FROM THE WASHINGTON FIELD OFFICE CALL [REDACTED] IN CAMBRIDGE, MASSACHUSETTS.

Approved: \_\_\_\_\_ Sent: \_\_\_\_\_ M Per: \_\_\_\_\_  
Special Agent in Charge

UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. Rosen *RF*

DATE: 10/29/71

FROM : W. V. Cleveland

SUBJECT: LEWIS F. POWELL, JR.

SUPREME COURT NOMINEES

b6  
b7C

b6  
b7C

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dobber \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

b6  
b7C

By memorandum 10/28/71, Mr. Bishop to Mr. Felt (copy attached), it was recorded that a writer for "The Washington Post" made inquiry as to whether during our investigation we contacted two professors and, in part, inquired whether they intended to appear and testify in opposition to Powell or [REDACTED]. The Special Investigative Division noted no such questions were posed by our Agents. The Director noted, "Send memo to A. G."

An article in this morning's "Washington Post" (copy attached) set forth the above allegation and included reference to other individuals interviewed indicating we inquired of the latter, too, whether they planned to fight the confirmations. The Director noted, "Why do we ask if the person plans to fight the confirmation."

In response to the Director's second notation, it has been established that none of the Agents who interviewed the persons mentioned in "The Washington Post" article did pose any such questions as suggested in the news article.

ACTION:

This is submitted in response to the Director's inquiries.

There is attached a suggested memorandum to the Attorney General apprising him of this situation.

Enclosures sent 10-29-71 ✓

1 - Mr. Felt  
1 - Mr. Rosen  
1 - Mr. Mohr  
1 - Mr. Bishop

1 - Administrative Review Unit  
Crime Records Division  
1 - Mr. Cleveland  
1 - Mr. Martin *b6 b7C ROK*  
1 - Mr. [REDACTED]

3X

JAR: LSH  
(9)

58 JAN 24 1972

77-321-100  
NOT RECORDED

162 JAN 20 1972

100

NOT RECORDED

R JAN 19 1972

ORIGINAL FILED IN 77-321-100

NR 602 SF PLAIN

1022AM IMMEDIATE 10-29-71 MS

TO DIRECTOR (77-106904)

FROM SAN FRANCISCO (77-11804) (77-13737) 2P

b6  
b7C

[REDACTED] AKA. DAPLI, JUSTICE, SUPREME COURT OF

LEWIS F. POWELL, JR. DAPLI, JUSTICE, SUPREME COURT OF THE  
UNITED STATES

b6/b7C

THE UNITED STATES

LEWIS FRANKLIN POWELL, JR. DAPLI, JUSTICE, SUPREME COURT OF THE  
UNITED STATES

P REBUTELCALL THIS DATE.

SA [REDACTED] ADVISES THAT IN HIS INTERVIEW WITH PROF.

[REDACTED] ON OCTOBER TWENTYSIX, LAST, REGARDING LEWIS  
FRANKLIN POWELL AND [REDACTED] HE AT NO TIME ASKED

b6  
b7C WHETHER HE PLANNED TO FIGHT THE CONFIRMATION OF THESE  
INDIVIDUALS NOR DID HE ASK [REDACTED] WHETHER HE INTENDED TO TESTIFY  
AGAINST EITHER OF THESE NOMINEES.

AT OUTSET OF INTERVIEW, [REDACTED] STATED HE HAD HAD NO PERSONAL  
CONTACT WITH EITHER NOMINEE. HE SPECULATED PERHAPS HIS NAME CAME  
UP BECAUSE OF HIS PREVIOUS COMMENTS REGARDING THE [REDACTED] AND  
[REDACTED] CASES.

b6  
b7C DURING INTERVIEW, [REDACTED] STATED HE FELT IT WAS UP TO THE [REDACTED]  
THE AMERICAN BAR ASSOCIATION (ABA) AND THE SENATE COMMITTEE TO  
EVALUATE A NOMINEE'S PROFESSIONAL QUALIFICATIONS AND VOLUNTEERED  
END PAGE ONE

77-121928-181  
NOT RECORDED

162 JAN 20 1972

File

58 JAN 24 1972

ORIGINAL FILED IN 77-121928-181

PAGE TWO

THAT HE INTENDED TO MAKE RESULTS OF HIS RESEARCH REGARDING ██████████ KNOWN TO THE ABA AND SENATE COMMITTEE. HE THEN GAVE THE EXAMPLES CITED IN SAN FRANCISCO REPORT AS TO REASONS HE FELT ██████████ LACKED JUDICIAL TEMPERAMENT. HE INDICATED HE HAD FURTHER SPECIFIC EXAMPLES OF OBJECTIONS; HOWEVER, DID NOT WISH TO MAKE ADDITIONAL DISCLOSURES TO THE FBI, BUT WOULD MAKE THEM KNOWN TO THE ABA AND SENATE COMMITTEE IN NEAR FUTURE.

THE WORDS "FIGHT" AND "TESTIFY" WERE NEVER UTILIZED BY EITHER SA ██████████ OR ██████████ DURING INTERVIEW AND ONLY REFERENCES TO EIGHT  
THE ABA OR SENATE COMMITTEE WERE MADE BY ██████████

END

RSP FBI WASH DC

b6  
b7c

b6  
b7c

*Look Martin Powell Jr.*

# FBI Queries Possible Opponents Of 2 Supreme Court Nominees

By John P. MacKenzie  
*Washington Post Staff Writer*

The FBI has carried its investigation of President Nixon's two Supreme Court nominees into the unfamiliar territory of the civil rights and civil liberties workers who uncovered damaging evidence against previous Nixon choices for the bench.

Agents in at least five cities have met with a mixed but mostly chilly reception after asking potential opponents of William H. Rehnquist and Lewis F. Powell Jr. whether they had any information and whether they planned to fight the confirmations.

Reaction to the FBI inquiries ranged from surprise at the bureau's sudden interest to outrage that the interest extended beyond data-gathering to the plans of persons considered unsympathetic to the Nixon administration.

Professor Gary Orfield of Princeton, who testified against confirmation of Clement F. Haynsworth Jr. and G. Harrold Carswell, said he was asked whether he expected to testify at Senate hearings opening on Wednesday.

Stanford law professor Anthony Amsterdam, who publicly opposed the possible nomination of Judge Mildred Lillie, was asked whether he would give his views on the court nominees either to the Senate or the American Bar Association, which is conducting its own investigation. Both men refused to commit themselves on the subject.

Among those who said they were questioned by the FBI was Richard T. Seymour, a lawyer with the Washington Research Project Action Council, a civil rights organization.

Seymour, whose investigation of Carswell produced evidence that he had helped convert a public golf course to a private club to avoid admitting Negroes, was called first at his Washington office. On that call the FBI learned that Seymour had already left for Phoenix, Ariz., where Rehnquist practiced law before be-

coming an assistant attorney general in 1969.

Reached at a Phoenix motel yesterday, Seymour told The Washington Post that an FBI agent had contacted him by telephone on Wednesday.

Seymour said the agent expressed some confusion as to why he was supposed to contact him but that it concerned Rehnquist. The agent asked about Seymour's background, his purpose and whether he had developed any new information.

The young lawyer told the agent that he had turned up "nothing worth talking about yet." Then, said Seymour, "I asked him if he had any information. He said he couldn't disclose it without permission from higher-ups. I said we operated under the same system."

Seymour said the brief conversation was "very friendly"—there was no attempt to scare me." Other individuals questioned expressed the same view.

Marian Wright Edelman, Seymour's superior at the Washington Research Project Action Council, said she received a call Wednesday in Massachusetts from the FBI's Washington office. The agent asked her to talk with a man from the FBI's Boston office, said Mrs. Edelman, who divides her time between Washington and Cambridge, Mass.

Mrs. Edelman, said she told the FBI that she had nothing to contribute as of now about either Rehnquist or Powell but she would call the bureau if anything developed.

*crossing off agents' questions,*

JK P: 59

Tolson	/
Felt	/
Rosen	/
Mohr	/
Bishop	/
Miller, E.S.	/
Callahan	/
Casper	/
Conrad	/
Dalbey	/
Cleveland	/
Ponder	/
Bates	/
Tavel	/
Walters	/
Soyars	/
Tele. Room	/
Holmes	/

*b6/b7c*

Deleted Copy Sent  
by Letter  
Per FOIA Request

*Why do we  
ask all the persons  
planned fight the  
confirmation?*

The Washington Post Times Herald *A-1*

The Washington Daily News

The Evening Star (Washington)

The Sunday Star (Washington)

Daily News (New York)

Sunday News (New York)

New York Post

The New York Times

The Daily World

The New Leader

The Wall Street Journal

The National Observer

People's World

*Check off each date*

Date OCT 29 1971

*10/29/71 10/30/71 10/31/71 11/1/71 11/2/71 11/3/71 11/4/71 11/5/71 11/6/71 11/7/71 11/8/71 11/9/71 11/10/71 11/11/71 11/12/71 11/13/71 11/14/71 11/15/71 11/16/71 11/17/71 11/18/71 11/19/71 11/20/71 11/21/71 11/22/71 11/23/71 11/24/71 11/25/71 11/26/71 11/27/71 11/28/71 11/29/71 11/30/71 12/1/71 12/2/71 12/3/71 12/4/71 12/5/71 12/6/71 12/7/71 12/8/71 12/9/71 12/10/71 12/11/71 12/12/71 12/13/71 12/14/71 12/15/71 12/16/71 12/17/71 12/18/71 12/19/71 12/20/71 12/21/71 12/22/71 12/23/71 12/24/71 12/25/71 12/26/71 12/27/71 12/28/71 12/29/71 12/30/71 12/31/71 1/1/72 1/2/72 1/3/72 1/4/72 1/5/72 1/6/72 1/7/72 1/8/72 1/9/72 1/10/72 1/11/72 1/12/72 1/13/72 1/14/72 1/15/72 1/16/72 1/17/72 1/18/72 1/19/72 1/20/72 1/21/72 1/22/72 1/23/72 1/24/72 1/25/72 1/26/72 1/27/72 1/28/72 1/29/72 1/30/72 1/31/72 2/1/72 2/2/72 2/3/72 2/4/72 2/5/72 2/6/72 2/7/72 2/8/72 2/9/72 2/10/72 2/11/72 2/12/72 2/13/72 2/14/72 2/15/72 2/16/72 2/17/72 2/18/72 2/19/72 2/20/72 2/21/72 2/22/72 2/23/72 2/24/72 2/25/72 2/26/72 2/27/72 2/28/72 2/29/72 3/1/72 3/2/72 3/3/72 3/4/72 3/5/72 3/6/72 3/7/72 3/8/72 3/9/72 3/10/72 3/11/72 3/12/72 3/13/72 3/14/72 3/15/72 3/16/72 3/17/72 3/18/72 3/19/72 3/20/72 3/21/72 3/22/72 3/23/72 3/24/72 3/25/72 3/26/72 3/27/72 3/28/72 3/29/72 3/30/72 3/31/72 4/1/72 4/2/72 4/3/72 4/4/72 4/5/72 4/6/72 4/7/72 4/8/72 4/9/72 4/10/72 4/11/72 4/12/72 4/13/72 4/14/72 4/15/72 4/16/72 4/17/72 4/18/72 4/19/72 4/20/72 4/21/72 4/22/72 4/23/72 4/24/72 4/25/72 4/26/72 4/27/72 4/28/72 4/29/72 4/30/72 5/1/72 5/2/72 5/3/72 5/4/72 5/5/72 5/6/72 5/7/72 5/8/72 5/9/72 5/10/72 5/11/72 5/12/72 5/13/72 5/14/72 5/15/72 5/16/72 5/17/72 5/18/72 5/19/72 5/20/72 5/21/72 5/22/72 5/23/72 5/24/72 5/25/72 5/26/72 5/27/72 5/28/72 5/29/72 5/30/72 5/31/72 6/1/72 6/2/72 6/3/72 6/4/72 6/5/72 6/6/72 6/7/72 6/8/72 6/9/72 6/10/72 6/11/72 6/12/72 6/13/72 6/14/72 6/15/72 6/16/72 6/17/72 6/18/72 6/19/72 6/20/72 6/21/72 6/22/72 6/23/72 6/24/72 6/25/72 6/26/72 6/27/72 6/28/72 6/29/72 6/30/72 7/1/72 7/2/72 7/3/72 7/4/72 7/5/72 7/6/72 7/7/72 7/8/72 7/9/72 7/10/72 7/11/72 7/12/72 7/13/72 7/14/72 7/15/72 7/16/72 7/17/72 7/18/72 7/19/72 7/20/72 7/21/72 7/22/72 7/23/72 7/24/72 7/25/72 7/26/72 7/27/72 7/28/72 7/29/72 7/30/72 7/31/72 8/1/72 8/2/72 8/3/72 8/4/72 8/5/72 8/6/72 8/7/72 8/8/72 8/9/72 8/10/72 8/11/72 8/12/72 8/13/72 8/14/72 8/15/72 8/16/72 8/17/72 8/18/72 8/19/72 8/20/72 8/21/72 8/22/72 8/23/72 8/24/72 8/25/72 8/26/72 8/27/72 8/28/72 8/29/72 8/30/72 8/31/72 9/1/72 9/2/72 9/3/72 9/4/72 9/5/72 9/6/72 9/7/72 9/8/72 9/9/72 9/10/72 9/11/72 9/12/72 9/13/72 9/14/72 9/15/72 9/16/72 9/17/72 9/18/72 9/19/72 9/20/72 9/21/72 9/22/72 9/23/72 9/24/72 9/25/72 9/26/72 9/27/72 9/28/72 9/29/72 9/30/72 10/1/72 10/2/72 10/3/72 10/4/72 10/5/72 10/6/72 10/7/72 10/8/72 10/9/72 10/10/72 10/11/72 10/12/72 10/13/72 10/14/72 10/15/72 10/16/72 10/17/72 10/18/72 10/19/72 10/20/72 10/21/72 10/22/72 10/23/72 10/24/72 10/25/72 10/26/72 10/27/72 10/28/72 10/29/72 10/30/72 10/31/72 11/1/72 11/2/72 11/3/72 11/4/72 11/5/72 11/6/72 11/7/72 11/8/72 11/9/72 11/10/72 11/11/72 11/12/72 11/13/72 11/14/72 11/15/72 11/16/72 11/17/72 11/18/72 11/19/72 11/20/72 11/21/72 11/22/72 11/23/72 11/24/72 11/25/72 11/26/72 11/27/72 11/28/72 11/29/72 11/30/72 12/1/72 12/2/72 12/3/72 12/4/72 12/5/72 12/6/72 12/7/72 12/8/72 12/9/72 12/10/72 12/11/72 12/12/72 12/13/72 12/14/72 12/15/72 12/16/72 12/17/72 12/18/72 12/19/72 12/20/72 12/21/72 12/22/72 12/23/72 12/24/72 12/25/72 12/26/72 12/27/72 12/28/72 12/29/72 12/30/72 12/31/72 1/1/73 1/2/73 1/3/73 1/4/73 1/5/73 1/6/73 1/7/73 1/8/73 1/9/73 1/10/73 1/11/73 1/12/73 1/13/73 1/14/73 1/15/73 1/16/73 1/17/73 1/18/73 1/19/73 1/20/73 1/21/73 1/22/73 1/23/73 1/24/73 1/25/73 1/26/73 1/27/73 1/28/73 1/29/73 1/30/73 1/31/73 2/1/73 2/2/73 2/3/73 2/4/73 2/5/73 2/6/73 2/7/73 2/8/73 2/9/73 2/10/73 2/11/73 2/12/73 2/13/73 2/14/73 2/15/73 2/16/73 2/17/73 2/18/73 2/19/73 2/20/73 2/21/73 2/22/73 2/23/73 2/24/73 2/25/73 2/26/73 2/27/73 2/28/73 2/29/73 2/30/73 2/31/73 3/1/73 3/2/73 3/3/73 3/4/73 3/5/73 3/6/73 3/7/73 3/8/73 3/9/73 3/10/73 3/11/73 3/12/73 3/13/73 3/14/73 3/15/73 3/16/73 3/17/73 3/18/73 3/19/73 3/20/73 3/21/73 3/22/73 3/23/73 3/24/73 3/25/73 3/26/73 3/27/73 3/28/73 3/29/73 3/30/73 3/31/73 4/1/73 4/2/73 4/3/73 4/4/73 4/5/73 4/6/73 4/7/73 4/8/73 4/9/73 4/10/73 4/11/73 4/12/73 4/13/73 4/14/73 4/15/73 4/16/73 4/17/73 4/18/73 4/19/73 4/20/73 4/21/73 4/22/73 4/23/73 4/24/73 4/25/73 4/26/73 4/27/73 4/28/73 4/29/73 4/30/73 5/1/73 5/2/73 5/3/73 5/4/73 5/5/73 5/6/73 5/7/73 5/8/73 5/9/73 5/10/73 5/11/73 5/12/73 5/13/73 5/14/73 5/15/73 5/16/73 5/17/73 5/18/73 5/19/73 5/20/73 5/21/73 5/22/73 5/23/73 5/24/73 5/25/73 5/26/73 5/27/73 5/28/73 5/29/73 5/30/73 5/31/73 6/1/73 6/2/73 6/3/73 6/4/73 6/5/73 6/6/73 6/7/73 6/8/73 6/9/73 6/10/73 6/11/73 6/12/73 6/13/73 6/14/73 6/15/73 6/16/73 6/17/73 6/18/73 6/19/73 6/20/73 6/21/73 6/22/73 6/23/73 6/24/73 6/25/73 6/26/73 6/27/73 6/28/73 6/29/73 6/30/73 7/1/73 7/2/73 7/3/73 7/4/73 7/5/73 7/6/73 7/7/73 7/8/73 7/9/73 7/10/73 7/11/73 7/12/73 7/13/73 7/14/73 7/15/73 7/16/73 7/17/73 7/18/73 7/19/73 7/20/73 7/21/73 7/22/73 7/23/73 7/24/73 7/25/73 7/26/73 7/27/73 7/28/73 7/29/73 7/30/73 7/31/73 8/1/73 8/2/73 8/3/73 8/4/73 8/5/73 8/6/73 8/7/73 8/8/73 8/9/73 8/10/73 8/11/73 8/12/73 8/13/73 8/14/73 8/15/73 8/16/73 8/17/73 8/18/73 8/19/73 8/20/73 8/21/73 8/22/73 8/23/73 8/24/73 8/25/73 8/26/73 8/27/73 8/28/73 8/29/73 8/30/73 8/31/73 9/1/73 9/2/73 9/3/73 9/4/73 9/5/73 9/6/73 9/7/73 9/8/73 9/9/73 9/10/73 9/11/73 9/12/73 9/13/73 9/14/73 9/15/73 9/16/73 9/17/73 9/18/73 9/19/73 9/20/73 9/21/73 9/22/73 9/23/73 9/24/73 9/25/73 9/26/73 9/27/73 9/28/73 9/29/73 9/30/73 10/1/73 10/2/73 10/3/73 10/4/73 10/5/73 10/6/73 10/7/73 10/8/73 10/9/73 10/10/73 10/11/73 10/12/73 10/13/73 10/14/73 10/15/73 10/16/73 10/17/73 10/18/73 10/19/73 10/20/73 10/21/73 10/22/73 10/23/73 10/24/73 10/25/73 10/26/73 10/27/73 10/28/73 10/29/73 10/30/73 10/31/73 11/1/73 11/2/73 11/3/73 11/4/73 11/5/73 11/6/73 11/7/73 11/8/73 11/9/73 11/10/73 11/11/73 11/12/73 11/13/73 11/14/73 11/15/73 11/16/73 11/17/73 11/18/73 11/19/73 11/20/73 11/21/73 11/22/73 11/23/73 11/24/73 11/25/73 11/26/73 11/27/73 11/28/73 11/29/73 11/30/73 12/1/73 12/2/73 12/3/73 12/4/73 12/5/73 12/6/73 12/7/73 12/8/73 12/9/73 12/10/73 12/11/73 12/12/73 12/13/73 12/14/73 12/15/73 12/16/73 12/17/73 12/18/73 12/19/73 12/20/73 12/21/73 12/22/73 12/23/73 12/24/73 12/25/73 12/26/73 12/27/73 12/28/73 12/29/73 12/30/73 12/31/73 1/1/74 1/2/74 1/3/74 1/4/74 1/5/74 1/6/74 1/7/74 1/8/74 1/9/74 1/10/74 1/11/74 1/12/74 1/13/74 1/14/74 1/15/74 1/16/74 1/17/74 1/18/74 1/19/74 1/20/74 1/21/74 1/22/74 1/23/74 1/24/74 1/25/74 1/26/74 1/27/74 1/28/74 1/29/74 1/30/74 1/31/74 2/1/74 2/2/74 2/3/74 2/4/74 2/5/74 2/6/74 2/7/74 2/8/74 2/9/74 2/10/74 2/11/74 2/12/74 2/13/74 2/14/74 2/15/74 2/16/74 2/17/74 2/18/74 2/19/74 2/20/74 2/21/74 2/22/74 2/23/74 2/24/74 2/25/74 2/26/74 2/27/74 2/28/74 2/29/74 2/30/74 2/31/74 3/1/74 3/2/74 3/3/74 3/4/74 3/5/74 3/6/74 3/7/74 3/8/74 3/9/74 3/10/74 3/11/74 3/12/74 3/13/74 3/14/74 3/15/74 3/16/74 3/17/74 3/18/74 3/19/74 3/20/74 3/21/74 3/22/74 3/23/74 3/24/74 3/25/74 3/26/74 3/27/74 3/28/74 3/29/74 3/30/74 3/31/74 4/1/74 4/2/74 4/3/74 4/4/74 4/5/74 4/6/74 4/7/74 4/8/74 4/9/74 4/10/74 4/11/74 4/12/74 4/13/74 4/14/74 4/15/74 4/16/74 4/17/74 4/18/74 4/19/74 4/20/74 4/21/74 4/22/74 4/23/74 4/24/74 4/25/74 4/26/74 4/27/74 4/28/74 4/29/74 4/30/74 5/1/74 5/2/74 5/3/74 5/4/74 5/5/74 5/6/74 5/7/74 5/8/74 5/9/74 5/10/74 5/11/74 5/12/74 5/13/74 5/14/74 5/15/74 5/16/74 5/17/74 5/18/74 5/19/74 5/20/74 5/21/74 5/22/74 5/23/74 5/24/74 5/25/74 5/26/74 5/27/74 5/28/74 5/29/74 5/30/74 5/31/74 6/1/74 6/2/74 6/3/74 6/4/74 6/5/74 6/6/74 6/7/74 6/8/74 6/9/74 6/10/74 6/11/74 6/12/74 6/13/74 6/14/74 6/15/74 6/16/74 6/17/74 6/18/74 6/19/74 6/20/74 6/21/74 6/22/74 6/23/74 6/24/74 6/25/74 6/26/74 6/27/74 6/28/74 6/29/74 6/30/74 7/1/74 7/2/74 7/3/74 7/4/74 7/5/74 7/6/74 7/7/74 7/8/74 7/9/74 7/10/74 7/11/74 7/12/74 7/13/74 7/14/74 7/15/74 7/16/74 7/17/74 7/18/74 7/19/74 7/20/74 7/21/74 7/22/74 7/23/74 7/24/74 7/25/74 7/26/74 7/27/74 7/28/74 7/29/74 7/30/74 7/31/74 8/1/74 8/2/74 8/3/74 8/4/74 8/5/74 8/6/74 8/7/74 8/8/74 8/9/74 8/10/74 8/11/74 8/12/74 8/13/74 8/14/74 8/15/74 8/16/74 8/17/74 8/18/74 8/19/74 8/20/74 8/21/74 8/22/74 8/23/74 8/24/74 8/25/74 8/26/74 8/27/74 8/28/74 8/29/74 8/30/74 8/31/74 9/1/74 9/2/74 9/3/74 9/4/74 9/5/74 9/6/74 9/7/74 9/8/74 9/9/74 9/10/74 9/11/74 9/12/74 9/13/74 9/14/74 9/15/74 9/16/74 9/17/74 9/18/74 9/19/74 9/20/74 9/21/74 9/22/74 9/23/74 9/24/74 9/25/74 9/26/74 9/27/74 9/28/74 9/29/74 9/30/74 10/1/74 10/2/74 10/3/74 10/4/74 10/5/74 10/6/74 10/7/74 10/8/74 10/9/74 10/10/74 10/11/74 10/12/74 10/13/74 10/14/74 10/15/74 10/16/74 10/17/74 10/18/74 10/19/74 10/20/74 10/21/74 10/22/74 10/23/74 10/24/74 10/25/74 10/26/74 10/27/74 10/28/74 10/29/74 10/30/74 10/31/74 11/1/74 11/2/74 11/3/74 11/4/74 11/5/74 11/6/74 11/7/74 11/8/74 11/9/74 11/10/74 11/11/74 11/12/74 11/13/74 11/14/74 11/15/74 11/16/74 11/17/74 11/18/74 11/19/74 11/20/74 11/21/74 11/22/74 11/23/74 11/24/74 11/25/74 11/26/74 11/27/74 11/28/74 11/29/74 11/30/74 12/1/74 12/2/74 12/3/74 12/4/74 12/5/*

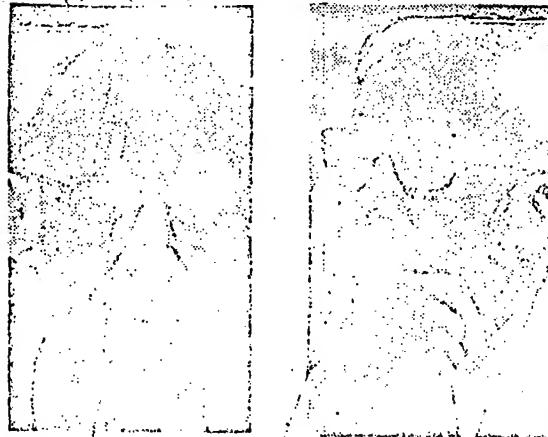
Mrs. Fairman said she had concluded "they clearly never heard of any of us."

The FBI took the brunt of criticism last year for failing to discover derogatory information on Carswell before critics did. Many in the bureau and elsewhere in government felt that the criticism was not entirely deserved because of the short notice and secrecy restrictions under which field agents were forced to operate.

Harvard law professor Lawrence H. Tribe, another private attorney consulted by the FBI, said he has had three FBI inquiries since Oct. 18, when The Post published his study of the recent judicial record of Judge Lillie, then a top name on the administration's list of potential nominees.

Tribe said the agent who called first said he was not conducting a formal check on Judge Lillie but wanted to be ready in case Washington asked for one. Asked the source of his interest in the candidate and what his professional opinion was, Tribe said he replied that he was acting as a scholar and former law clerk concerned about the Supreme Court and that he had a low opinion of the California judge.

Wednesday of this week Tribe received a personal visit and a telephone call from another agent, this time about Rehnquist and Powell. The FBI, Tribe said, wanted to know if he was conducting a comparable study of the two nominees. Tribe said he was annoyed at the question and refused to answer it.



LEWIS V. POWELL JR. WILLIAM H. REHNQUIST  
Nixon's choices to fill Supreme Court vacancies

169

NR006 NY PLAIN  
130PM IMMEDIATE 10-29-71 PAC  
TO DIRECTOR  
FROM NEW YORK 77-34526 - 77-34527 1P

LEWIS FRANKLIN POWELL, JR., DAPLI, JUSTICE, SUPREME COURT  
OF THE UNITED STATES (NYFILE 77-34527).

P [REDACTED] AKA [REDACTED]  
[REDACTED] DAPLI, JUSTICE, SUPREME COURT  
OF THE UNITED STATES, (NYFILE 77-34526).

b6  
b7c

REFERENCE BUREAU TELEPHONE CONVERSATION TO NEW YORK,  
OCTOBER TWENTY NINE INSTANT AND NEW YORK TELEPHONE  
CONVERSATION TO BUREAU, OCTOBER TWENTY NINE INSTANT.

[REDACTED] AND [REDACTED] WHEN INTERVIEWED  
BY SPECIAL AGENT [REDACTED] WERE NOT ASKED WHETHER  
THEY PLANNED TO FIGHT THE CONFIRMATION OF EITHER APPLICANT  
OR WHETHER THEY WOULD TESTIFY AGAINST EITHER APPLICANT.

V b6  
b7c

RUC.

END

LMR FBI WA DC CLR

72-12192-103

NOT RECORDED

182 JAN 20 1972

5 JAN 18 1972

g  
G

58 JAN 23 1972

ORIGINAL FILED IN 72-12192-103

FEDERAL BUREAU OF INVESTIGATION  
COMMUNICATIONS SECTION

OCT 28 1971

TELETYPE

NR 003 BS CODE

4:20PM 10-28-71 DMD IMMEDIATE

TO DIRECTOR  
FROM BOSTON 77-14555

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Rates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

✓  
MR. MARTIN  
ROOM 1246

LEWIS FRANKLIN POWELL JR., DAPLI, JUSTICE, U.S. SUPREME COURT.

ON OCTOBER TWENTYSEVENTH LAST, PROFESSOR [REDACTED] HARVARD LAW SCHOOL, CAMBRIDGE, MASS., ADVISED THAT HE HAS NOT MADE NOR CONDUCTED ANY STUDY REGARDING THE APPLICANT. HE STATED THAT HE IS NOT PRESENTLY CONDUCTING ANY STUDY OF THE APPLICANT. HOWEVER, HE ADDED THAT HE IS NATURALLY CONCERNED AND INTERESTED IN THE APPOINTMENTS TO THE SUPREME COURT AND HAS, THEREFORE, BEEN READING BACKGROUND INFORMATION REGARDING THE APPLICANT. HE SAID THAT HE DOES NOT CONSIDER THIS TO BE A STUDY IN ANY MANNER. PROFESSOR [REDACTED] ADVISED THAT HE COULD NOT PROVIDE ANY PERTINENT INFORMATION REGARDING THE APPLICANT. *77-151928* *104* *NOT RECORDED*

b6 b7c  
END OF PAGE ONE

5 JAN 19 1972

b6/b7c

Deleted Copy Sent  
by Letter *101-34713*

Per FOIA Request *John*

59 JAN 25 1972

*g am*  
*161*